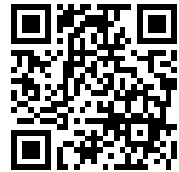


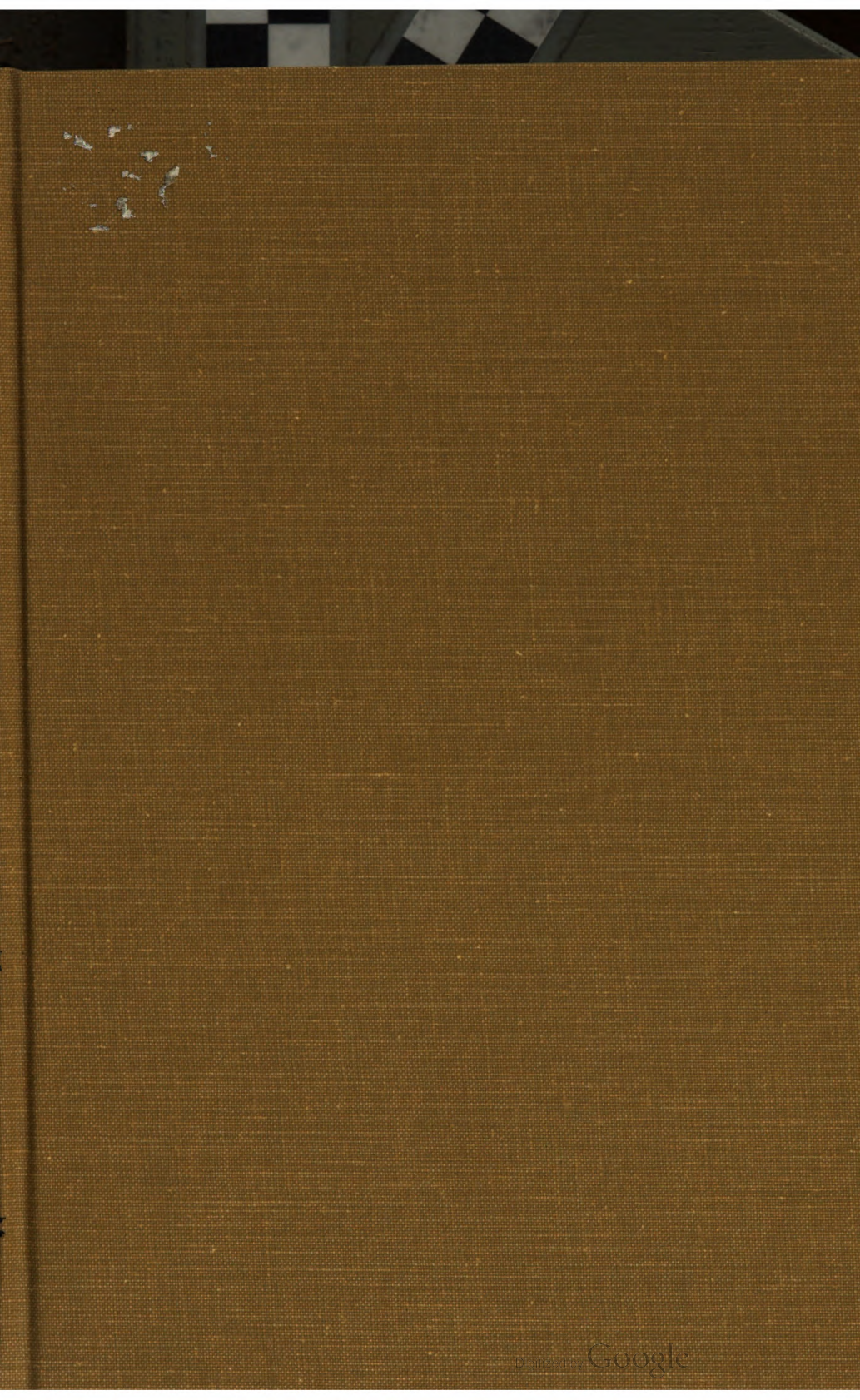
---

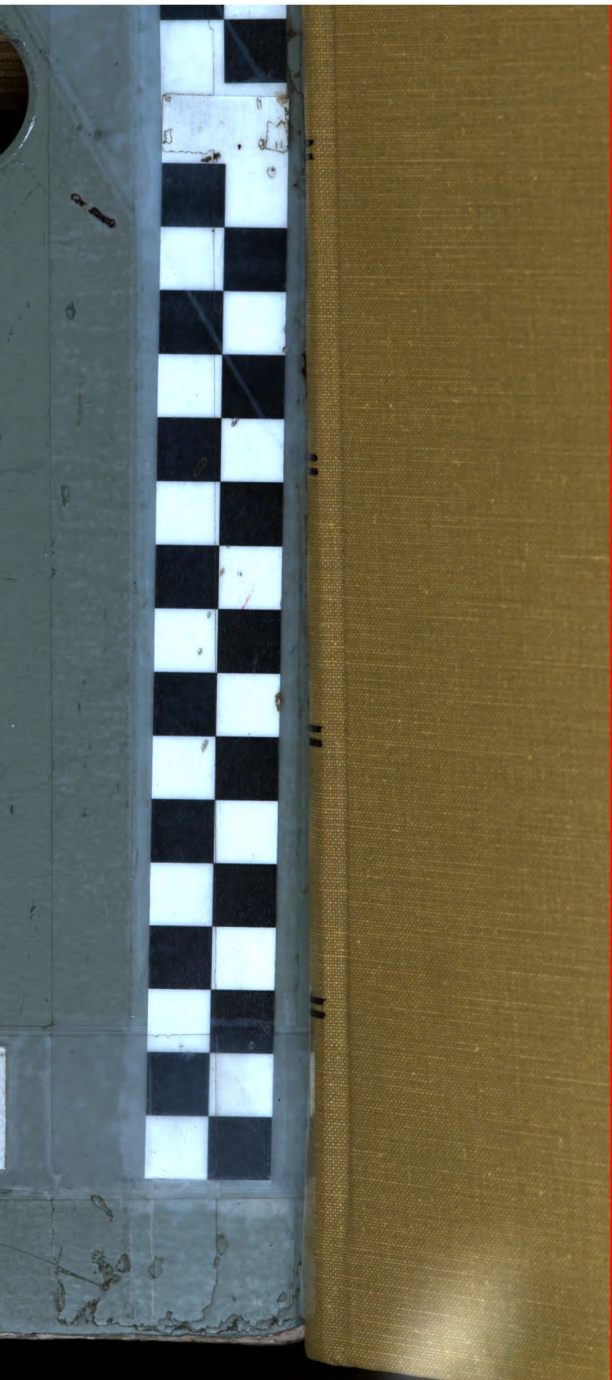
This is a reproduction of a library book that was digitized by Google as part of an ongoing effort to preserve the information in books and make it universally accessible.

Google™ books

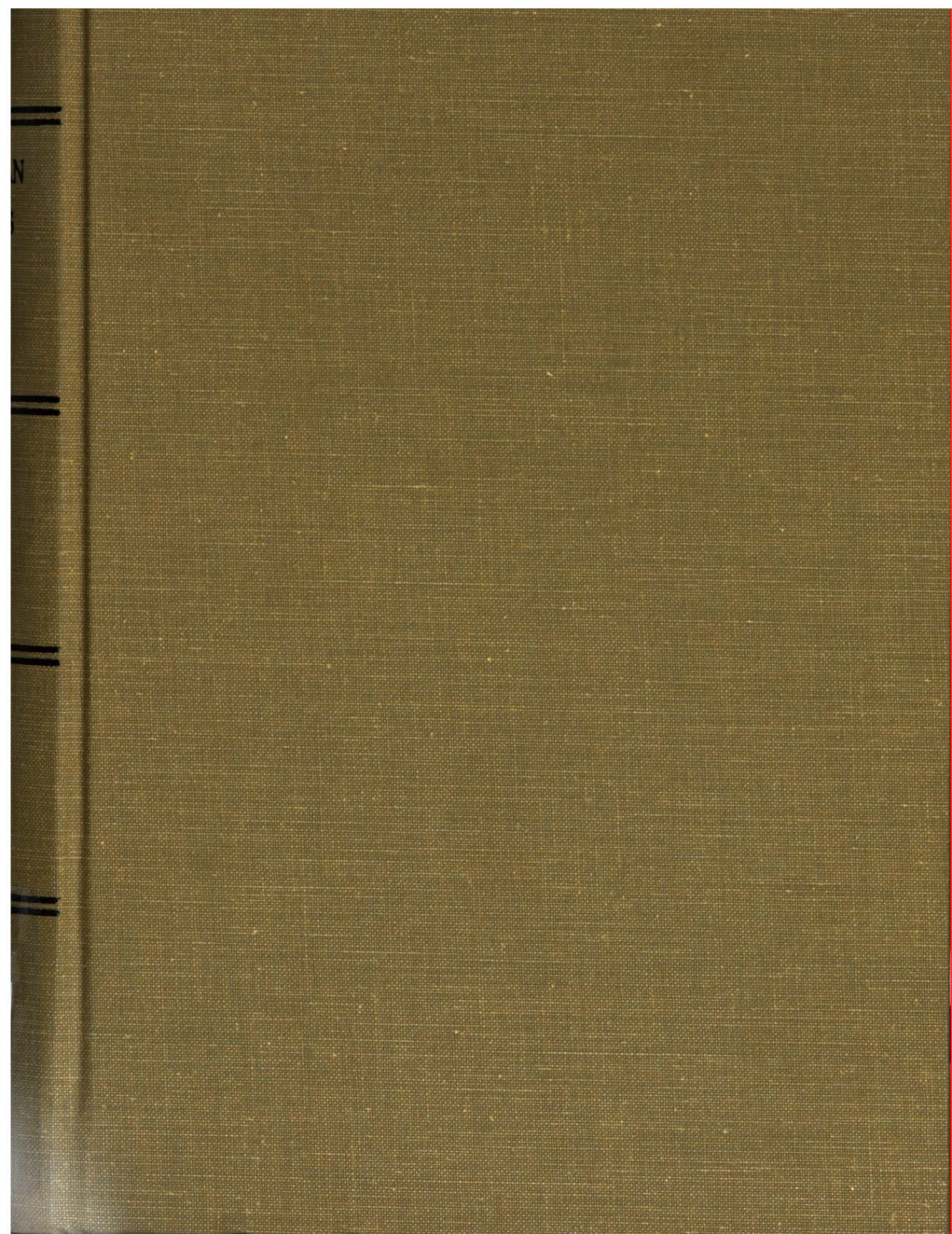
<https://books.google.com>



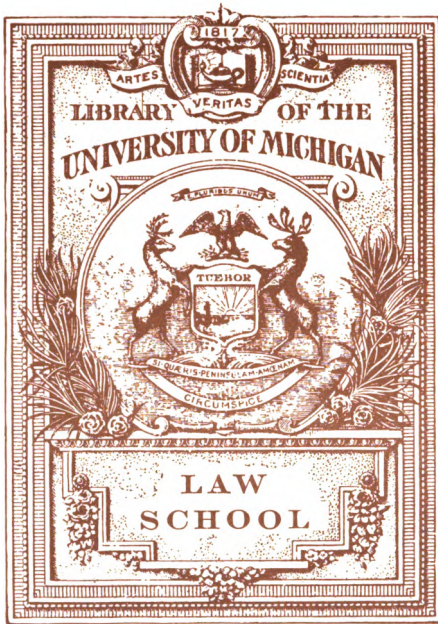












10











Hawaiian Islands. Laws

# THE PENAL LAWS

OF THE

# HAWAIIAN ISLANDS,

5014

1897.

---

COMPILED FROM THE PENAL CODE OF 1869  
AND THE  
SESSION LAWS OF 1870 TO 1896 INCLUSIVE.

---

**Published by Authority.**

---

HONOLULU :  
HAWAIIAN GAZETTE PRINT.  
1897.





## COMPILER'S PREFACE.

---

The only general enactment of Penal Laws in the Hawaiian Islands is the Penal Code of 1869 which was enacted by Session Laws 1870, Chapter 1.

The Penal Laws passed from 1870 to 1882 inclusive were included in the Compiled Laws of 1884. The present volume includes all the Penal Laws now in force including the Session Laws of 1896, with references to the Hawaiian Reports, Volumes 1 to 10 inclusive.

On account of the numerous references in the Hawaiian Reports to the Penal Code of 1869 by chapter numbers, it was deemed inadvisable to change the order of chapters in favor of a more logical arrangement. The present volume therefore contains all the old Penal Code which is still in force under the same chapter numbers. Chapter 53 and Chapters 93 to 101 inclusive are new.

The general plan of the work is the same as that set forth in the preface to the Civil Laws of 1897 published simultaneously herewith.

SIDNEY MILLER BALLOU.





## TABLE OF CONTENTS.

---

	PAGE
Constitution of the Republic.....	1
Chapter 1—Definitions . . . . .	52
“ 2—General Provisions . . . . .	54
“ 3—Jurisdiction . . . . .	56
“ 4—Capacity and Responsibility.....	57
“ 5—Principles and Accessories.....	59
“ 6—Treason . . . . .	60
“ 7—Homicidal Offenses . . . . .	62
“ 8—Duelling . . . . .	65
“ 9—Assault and Battery . . . . .	67
“ 10—Kidnapping—Unlawful Imprisonment and Child Stealing.....	71
“ 11—Rape—Seduction—Abduction . . . . .	73
“ 12—Causing Abortion—Concealing the Death of an Infant . . . . .	75
“ 13—Polygamy — Adultery—Fornication—Incest —Sodomy—Procuring . . . . .	76
“ 14—Burglary . . . . .	80
“ 15—Robbery . . . . .	82
“ 16—Larceny . . . . .	84
“ 17—Violation of Postal Laws.....	87
“ 18—Embezzlement . . . . .	93
“ 19—Extortion . . . . .	95
“ 20—Receiving Stolen Goods.....	97
“ 21—Gross Cheats . . . . .	99
“ 22—Arson . . . . .	103
“ 23—Malicious Injury . . . . .	106
“ 24—Cruelty to Animals.....	107
“ 25—Felonious Branding of Cattle.....	110

	PAGE.
Chapter 26—Riding and Driving.....	111
“ 27—Perjury . . . . .	114
“ 28—Conspiracy . . . . .	115
“ 29—Obstructing the Course of Justice.....	118
“ 30—Forgery . . . . .	125
“ 31—Coins and Currency . . . . .	130
“ 32—Libel . . . . .	134
“ 33—Affray . . . . .	137
“ 34—Drunkenness—Blasphemy—Profanity . . .	138
“ 35—Violating the Sabbath . . . . .	140
“ 36—Common Nuisance . . . . .	142
“ 37—Vagrants—Disorderly Persons . . . . .	154
“ 38—Riots and Unlawful Assemblies . . . . .	156
“ 39—Gambling . . . . .	160
“ 40—Night . . . . .	164
“ 41—Intoxicating Liquors . . . . .	166
“ 42—Keeping a Disorderly House.....	190
“ 43—Offenses Committed on the High Seas and Other Waters . . . . .	191
“ 44—Attempts and Instigations.....	196
“ 45—Accessories After the Fact.....	198
“ 46—Former Conviction or Acquittal.....	199
“ 47—Suppression of Offenses.....	201
“ 48—Search Warrants . . . . .	204
“ 49—Arrests . . . . .	207
“ 50—Bail . . . . .	209
“ 51—Fines and Costs . . . . .	215
“ 52—Criminal Jurisdiction . . . . .	218
“ 53—Criminal Procedure . . . . .	224
“ 54—Carrying Deadly Weapons.....	251
“ 55—Licenses . . . . .	252
“ 56—Desertion of Husband or Wife.....	289
“ 57—To Mitigate the Evils and Diseases Arising from Prostitution . . . . .	291
“ 58—Disease of Sheep . . . . .	294
“ 59—The Public Health . . . . .	296



CONTENTS.

VII

	PAGE.
Chapter 60—Coroner's Inquest . . . . .	322
“ 61—For the Protection of Places of Sepulture . . .	326
“ 62—To Prevent the Spread of Leprosy . . . . .	327
“ 63—Fires and Fireproof Buildings . . . . .	337
“ 64—Gunpowder . . . . .	360
“ 65—Public Markets . . . . .	362
“ 66—Port Regulations . . . . .	366
“ 67—Whale Ships . . . . .	370
“ 68—The Arrival, Entry and Departure of Vessels	373
“ 69—Aid for Seamen's Hospital . . . . .	392
“ 70—Smuggling . . . . .	393
“ 71—The Shipping and Discharge of Seamen . . . .	405
“ 72—Deserters and Mutineers . . . . .	414
“ 73—The Registry of Vessels . . . . .	417
“ 74—Passports . . . . .	418
“ 75—Wrecks . . . . .	422
“ 76—Barratry . . . . .	425
“ 77—Offenses Against Sundry Departments of the Government . . . . .	426
“ 78—Masters and Servants . . . . .	432
“ 79—Bureau of Public Instruction—Parental and Filial Duties . . . . .	444
“ 80—Of Highways and Bridges . . . . .	454
“ 81—Landing and Driving Cattle in Honolulu . . .	458
“ 82—Prisons . . . . .	460
“ 83—Trespass of Animals—Brands and Marks . . .	461
“ 84—Fisheries . . . . .	463
“ 85—Birds and Game . . . . .	468
“ 86—Elections . . . . .	474
“ 87—Taxes . . . . .	480
“ 88—Deadly Poisons . . . . .	481
“ 89—Explosives . . . . .	483
“ 90—For the Construction of Statutes where the English and Hawaiian Versions do not Agree . . . . .	491
“ 91—Trial of Different Degrees of Certain Offenses Under one Indictment . . . . .	492

	PAGE.
Chapter 92—Control of the Press.....	493
“ 93—Immigration . . . . .	496
“ 94—Secret Associations . . . . .	511
“ 95—Agriculture and Forestry . . . . .	513
“ 96—Seditious Offenses . . . . .	519
“ 97—Opium . . . . .	523
“ 98—Courts Martial . . . . .	526
“ 99—Sailing Regulations . . . . .	531
“ 100—Registration of Co-partnerships . . . . .	543
“ 101—Quarantine of Animals . . . . .	545

# CONSTITUTION

OF THE

# REPUBLIC OF HAWAII.

---

## RIGHTS OF PERSON AND PROPERTY.

### ARTICLE 1.—RIGHTS OF THE PERSON.

SECTION 1. God hath endowed all men with certain inalienable Rights, among which are Life, Liberty and the Right of acquiring, possessing and Protecting Property, and of pursuing and obtaining Happiness.

SECTION 2. The Government is conducted for the common good, and not for the profit, honor or private interest of any one man, family or class of men.

SECTION 3. The Legislature may provide by law, however, for the supervision, registration, control and identification of all persons, or any class or nationality of persons; and may also by law restrict and limit the term of residence, and the business or employment of all persons or of any class or nationality of persons coming into the Republic.

### ARTICLE 2.—RELIGIOUS FREEDOM.

All men are free to worship God according to the dictates of their own consciences; but this privilege shall not be so con-

A

strued as to justify acts of licentiousness or practices inconsistent with the peace or safety of the Republic.

ARTICLE 3.—FREEDOM OF SPEECH AND OF THE PRESS.

All men may freely speak, write and publish their sentiments on all subjects; and no law shall be enacted to restrain the liberty of speech or of the press; but all persons shall be responsible for the abuse of such right. Provided however, that the Legislature may enact such laws as may be necessary, to restrain and prevent the publication or public utterance of indecent or seditious language.

ARTICLE 4.—MEETING AND PETITION.

All men shall have the right to assemble in an orderly and peaceable manner, without arms, to consult upon the common good and to petition the President or Legislature for redress of grievances.

ARTICLE 5.—WRIT OF HABEAS CORPUS.

The privilege of the Writ of Habeas Corpus belongs to all men, and shall not be suspended, except by the President or by one of the Cabinet Ministers as herein provided, when in case of rebellion or invasion, or imminent danger of rebellion or invasion, the public safety shall require its suspension.

Provided, however, that no alien unlawfully entering the Republic shall be entitled to this Writ as of right.

ARTICLE 6.—RIGHT OF TRIAL.

SECTION 1. No person shall be subject to punishment for any offense except on due and legal conviction thereof by a tribunal having jurisdiction of the case.

SECTION 2. Except in case of impeachment or offenses within the jurisdiction of a district magistrate, or in summary proceed-



ings for contempt, no person shall be held to answer for any offense except upon indictment, information or complaint, describing such offense; and he shall in all cases have the right to meet the witnesses who are produced against him, face to face; to produce witnesses and proofs in his own favor; and by himself or his counsel, at his election, to examine the witnesses produced by himself and cross-examine those produced against him, and to be heard in his own defense.

SECTION 3. Subject to such changes as the Legislature may from time to time make in the number of jurors for the trial of any case, and concerning the number required to agree to a verdict and the manner in which the jury may be selected and drawn, and the composition and qualifications thereof, the right of trial by jury in all cases in which it has been heretofore used, shall remain inviolable except in actions for debt or assumpsit in which the amount claimed does not exceed one hundred dollars, and such offenses less than felonies as may be designated by law. And provided that no capital case shall be tried by a jury of less than twelve men.

The jury may be waived in all civil cases under such conditions as may be prescribed by law, and by defendants in all criminal cases except capital.

#### ARTICLE 7.—PREVIOUS CONVICTION OR ACQUITTAL.

No person shall be required to answer for any offense identical both in law and fact with an offense of which he has been duly convicted or of which he has been duly acquitted.

#### ARTICLE 8.—PRIVILEGE OF ACCUSED.

No person shall be compelled in any criminal case to be a witness against himself; nor be deprived of life, liberty or property, without due process of law.

## CONSTITUTION.

## ARTICLE 9.—SLAVERY.

Involuntary servitude, except for crime, is forever prohibited in this Republic. Whenever a slave shall enter the territory of this Republic he shall be free.

## ARTICLE 10.—SECURITY FROM SEARCH AND ARREST.

Every person has the right to be secure from all unreasonable searches and seizures of his person, his house, his papers and effects; and no warrant shall issue, except on probable cause, supported by oath or affirmation and describing the place to be searched and the persons or things to be seized.

## ARTICLE 11.—TAXING AND APPROPRIATING POWER.

SECTION 1. No Subsidy, Duty or Tax, of any description, shall be established or levied without the consent of the Legislature; nor shall any money be drawn from the Public Treasury without such consent, except in the manner directed by this Constitution.

SECTION 2. Each member of society has the right to be protected in the enjoyment of his life, liberty and property, according to law; and therefore, he shall be obliged to contribute his proportion or share to the expense of this protection; and to give his personal services, or an equivalent when necessary, as may be provided by law.

## ARTICLE 12.—EMINENT DOMAIN.

Private property may be taken for public use, and private rights of way may be obtained across the lands of others for railways, drains, flumes, water-pipes and ditches for agricultural, milling, manufacturing, mining, domestic or sanitary purposes; but only upon due process of law and just compensation.

Public use shall include such purposes as shall be required or designated by treaty stipulations between the Republic of Hawaii and any other nation.

ARTICLE 13.—MILITARY SUBJECT TO LAW.

SECTION 1. The Military shall always be subject to the laws of the land.

SECTION 2. No soldier shall, in time of peace, be quartered in any house without the consent of the owner; nor in time of war, but in a manner prescribed by the Legislature.

---

THE REPUBLIC.

ARTICLE 14.—FORM AND NAME OF GOVERNMENT.

The Government hereby instituted is a Republic under the terms and conditions of this Constitution.

The name of this Government is, and shall be, the Republic of Hawaii.

ARTICLE 15.—TERRITORY.

The Territory of the Republic of Hawaii shall be that heretofore constituting the Kingdom of the Hawaiian Islands, and the territory ruled over by the Provisional Government of Hawaii, or which may hereafter be added to the Republic.

ARTICLE 16.—ENSIGN.

The Ensign heretofore in use as the Hawaiian National Ensign, shall continue to be the National Ensign of the Republic of Hawaii.

## ARTICLE 17.—CITIZENSHIP.

SECTION 1. All persons born or naturalized in the Hawaiian Islands, and subject to the jurisdiction of the Republic, are citizens thereof.

## SPECIAL RIGHTS OF CITIZENSHIP.

SECTION 2. Any person not a Hawaiian citizen, who took active part, or otherwise rendered substantial service in the formation of, and has since supported the Provisional Government of Hawaii, who shall within six months from the promulgation of this Constitution procure from the Minister of the Interior a certificate of such service, as herein set forth; and who shall take an oath to support this Constitution and the laws of the Republic so long as he shall remain domiciled in the Republic, shall be entitled to all the privileges of citizenship without thereby prejudicing his native citizenship or allegiance.

SECTION 3. For the purpose of identifying the person entitled to such certificate, the Minister of the Interior shall appoint such number of examiners as he may deem best, to receive applications and take evidence upon such subject.

Such examiners shall certify to the said Minister a description of each person found to be entitled to such certificate, which description shall include the name, age, country of birth, occupation, length of residence in Hawaii and present residence.

SECTION 4. It shall be in the discretion of the Minister of the Interior to reverse the decision of any such examiner and issue a certificate to any person in his opinion entitled thereto; and to refuse to issue a certificate to any person, who, in his opinion, is not entitled thereto.

The decision of the Minister shall be final and not subject to appeal or review.

SECTION 5. Any person to whom such certificate shall be granted shall be admitted, upon application, to naturalization, without showing any further qualifications.

# CONSTITUTION.

7

## ARTICLE 18.—NATURALIZATION.

SECTION 1. The naturalization of aliens shall be exclusively within the jurisdiction of the Justices of the Supreme Court.

The procedure shall be such as may be provided by law.

SECTION 2. An alien may be admitted to citizenship upon the following conditions, viz:

1. He shall have resided in the Hawaiian Islands for not less than two years.

2. He must intend to become a permanent citizen of the Republic.

3. He shall be able understandingly to read, write and speak the English language.

4. He shall be able intelligently to explain, in his own words, in the English language, the general meaning and intent of any article or articles of this Constitution.

5. He shall be a citizen or subject of a country having express treaty stipulations with the Republic of Hawaii concerning naturalization.

6. He shall be of good moral character and not a refugee from justice.

7. He shall be engaged in some lawful business or employment or have some other lawful means of support.

8. He shall be the owner in his own right of property in the Republic of the value of not less than Two Hundred Dollars over and above all encumbrances.

9. He shall have taken the oath prescribed in Article 101 of this Constitution and an oath abjuring allegiance to the Government of his native land or that under which he has heretofore been naturalized, and of allegiance to the Republic of Hawaii.

10. He shall make written application, verified by oath, to a Justice of the Supreme Court, setting forth his possession of and compliance with all of the foregoing qualifications



and requirements, and shall prove the same to the satisfaction of such Justice.

#### ARTICLE 19.—DENIZATION.

SECTION 1. Letters of Denization of the following classes may be granted by the Executive Council:

1. Letters conferring all of the privileges of citizenship, except the right to vote, which may be granted to any person.

2. Special Letters conferring all of the rights of citizenship including the right to vote, which shall be granted only to persons eligible to become naturalized; provided however that the conditions of intention to become a permanent citizen, of an oath abjuring allegiance to the Government of his native land, of an oath of allegiance to the Republic and of application to the Supreme Court shall not be required; and provided further that the condition of being a citizen or subject of a country having treaty relations with this Republic concerning naturalization shall not apply to persons who have resided in the Hawaiian Islands for a period of seven years or more prior to the date of the promulgation of this Constitution, and who may apply for Letters of Denization within five years from such promulgation.

SECTION 2. Every person receiving Letters of Denization shall take the oath prescribed in Article 101 of this Constitution and shall thereupon be subject to all of the duties and obligations of a citizen.

SECTION 3. All Letters of Denization heretofore granted are hereby revoked.

#### ARTICLE 20.—DIVISION OF POWERS OF GOVERNMENT.

The Supreme Power of the Republic is divided into the Executive, Legislature and Judicial. Except as herein provided, these shall be preserved distinct.

THE EXECUTIVE POWER.

ARTICLE 21.—EXECUTIVE COUNCIL.

SECTION 1. The Executive Power of the Republic shall be vested in a President and Cabinet.

SECTION 2. The Cabinet shall consist of a Minister of Foreign Affairs; a Minister of the Interior; a Minister of Finance and an Attorney-General.

SECTION 3. The President and Cabinet sitting together shall constitute the Executive Council.

---

THE PRESIDENT.

ARTICLE 22.—QUALIFICATIONS OF PRESIDENT.

In order to be eligible to the office of President, a person shall:

Be not less than thirty-five years of age;

Have been born in the Hawaiian Islands or resided therein for not less than fifteen years;

And be a citizen of the Republic.

ARTICLE 23.—FIRST PRESIDENT.

Sanford Ballard Dole is hereby declared to be the President of the Republic of Hawaii, to hold office until and including the 31st day of December, 1900, and thereafter until a successor shall have been duly elected and qualified.

ARTICLE 24.—ELECTION OF PRESIDENT.

SECTION 1. On the third Wednesday of September, 1900, and on the third Wednesday of September in every sixth year

thereafter, the Legislature shall meet to elect a President for a term of six years to begin with the first day of January of the year following.

SECTION 2. For the purposes of such election the Senate and the House of Representatives shall sit together.

The election shall be by ballot, and the person receiving a majority vote of all the elective members to which the Legislature is entitled, which majority shall include a majority of all the Senators, shall be President for the succeeding term; or for the unexpired portion of such term in case no person shall have been elected prior to the first day of such term.

SECTION 3. If the Legislature shall fail to elect a President before the first day of January following the date when the Legislature is required to meet for such election, the President whose term has then expired or the Minister who is acting as President shall continue to be or act as President until his successor is elected and qualified; but such failure to elect shall in no case discharge the Legislature from their duty to immediately proceed with such election.

SECTION 4. No President shall be eligible for re-election for the term immediately following that for which he was elected.

#### ARTICLE 25.—SALARY OF PRESIDENT.

The President shall, at stated times, receive for his services a compensation, which shall neither be increased nor diminished during the period for which he shall have been elected, and he shall not receive within that period any other emolument from the Republic.

#### ARTICLE 26.—POWER OF APPOINTMENT.

SECTION 1. The President, with the approval of the Senate, shall appoint the members of the Cabinet; the Judges of the Supreme and Circuit Courts; the Auditor General and all

Diplomatic and Consular Representatives to foreign countries; and until the end of the first session of the Senate, the appointees of the President shall act.

SECTION 2. In case a vacancy in any such office shall occur while the Senate is not in session, the President may fill such vacancy by granting a commission which shall, unless confirmed, expire at the end of the next session of the Senate.

SECTION 3. In case of the absence from the seat of Government or temporary disability of any member of the Cabinet, the President may appoint one of the remaining members of the Cabinet to temporarily perform the duties of the member so absent or disabled.

No such ad interim appointment shall, however, be valid for more than sixty days from the date of the appointment.

SECTION 4. The President shall also, with the approval of the Cabinet, appoint the members of the Board of Health; Board of Education; Board of Immigration; Board of Prison Inspectors, and any other Boards of a public character which may be created by law; and the District Magistrates.

SECTION 5. The President shall have the appointment and removal of all officers of the Government whose appointment or removal is not otherwise provided for.

#### ARTICLE 27.—POWER OF REMOVAL.

The President shall have the power, with the approval of the Cabinet, to remove any of the officers enumerated in the last Article, except the Auditor General, and the District Magistrates, who shall be removable as provided by law; and except the Judges of the Supreme and Circuit Courts, who shall be removable only as herein prescribed; and except the members of the Cabinet, who shall be removable only by the President with the consent of the Senate. The President with the approval of three members of the Cabinet may remove any member of the Cabinet.

## ARTICLE 28.—CONVENING THE LEGISLATURE.

The President may convene the Legislature or the Senate alone, in special session; and in case the seat of government shall be insecure from an enemy, riot, or insurrection or any dangerous disorder, direct that any regular or special session shall be held at some other than the regular meeting place.

## ARTICLE 29.—RECEIVING FOREIGN REPRESENTATIVES.

The President shall receive and acknowledge all Diplomatic Representatives accredited to the Republic by other Governments.

## ARTICLE 30.—MESSAGES TO THE LEGISLATURE.

The President shall, upon the meeting of the Legislature, and at such other times as he may deem proper, inform such body, by message in writing, as to the condition of the Republic; or concerning other matters of public interest; and recommend the consideration of such measures as to him shall seem best.

## ARTICLE 31.—MARTIAL LAW—SUSPENSION OF HABEAS CORPUS.

The President, or one of the Cabinet Ministers as herein provided, may, in case of rebellion or invasion, or imminent danger of rebellion or invasion, when the public safety requires it, suspend the privilege of the writ of habeas corpus or place the whole or any part of the Republic under martial law.

## ARTICLE 32.—TREATIES.

The President, with the approval of the Cabinet, shall have the power to make Treaties with Foreign Governments, subject to the ratification of the Senate.

The President, with the approval of the Cabinet, is hereby

expressly authorized and empowered to make a Treaty of Political or Commercial Union between the Republic of Hawaii and the United States of America, subject to the ratification of the Senate.

ARTICLE 33.—COMMANDER-IN-CHIEF.

The President is the Commander-in-Chief of all the Military Forces of the Republic.

---

THE CABINET.

ARTICLE 34.—COUNSELLORS OF THE PRESIDENT.

The Cabinet shall be the special counsellors of the President and shall be consulted by him concerning all matters of public policy, appointments to office, and other matters of importance concerning which action is contemplated.

The President shall not be bound to follow the advice of the Cabinet, except in the instances where, by this Constitution, the approval of the Cabinet is required as a prerequisite for his action.

ARTICLE 35.—REPORTS—RESPONSIBILITY—POWERS OF APPOINTMENT AND REMOVAL.

SECTION 1. Each member of the Cabinet shall keep an office at the seat of Government, and shall, not later than the last Wednesday in February in each year, present to the President a full report of the principal transactions within his department during the year ending December thirty-first last preceding, together with such recommendations as he may think proper.

He shall also at any time, when requested in writing by



the President, report to him on any subject within the scope of his authority.

SECTION 2. The members of the Cabinet shall be responsible for the conduct of their respective Departments; and, with the approval of the President, shall have the appointment and removal of the following heads of Bureaus, under their respective Departments, viz:

The Superintendent of Public Works; the Surveyor General; the Registrar of Conveyances; the Superintendent of the Honolulu Water Works; the Marshal; the Collector General of Customs; the Tax Assessors in Chief and the Post Master General, and also the heads of any other Bureaus created by law.

SECTION 3. Each head of a Bureau shall be responsible for the conduct of his Bureau, and shall have the appointment and removal of the officers under him, subject to the approval of the Minister in whose Department he is employed.

SECTION 4. The financial responsibility of any officer of the Government, for his own conduct, or that of his subordinates, shall be determined by law.

ARTICLE 36.—ACTING PRESIDENT IN CASE OF DEATH, DISABILITY OR ABSENCE OF PRESIDENT.

SECTION 1. In case of the temporary disability or absence from the country of the President, the Minister of Foreign Affairs, while such disability or absence continues, shall act as President; or,

In case of the disability or absence from the country of such Minister, the Minister of the Interior, while such disability or absence of the President continues, shall act as President; or,

In case of the disability or absence of both such Ministers, the Minister of Finance, while such disability or absence of the President continues, shall act as President; or,

In case of the disability or absence from the country of the three Ministers aforesaid, then the Attorney-General, while

such disability or absence of the President continues, shall act as President.

SECTION 2. In case of the death, resignation, removal or permanent disability of the President, the Minister of Foreign Affairs shall thereupon act as President until a successor to the President is elected in the manner herein designated; or,

In case of the disability or absence from the country of such Minister, the Minister of the Interior shall act as President for the time aforesaid; or,

In case of the disability or absence from the country of both such Ministers, the Minister of Finance shall act as President for the time aforesaid; or,

In case of the disability or absence from the country of the three Ministers aforesaid, the Attorney-General shall act as President for the time aforesaid.

SECTION 3. If at any time during the absence of the President or acting President from the seat of Government, an occasion shall arise requiring a declaration of martial law, or suspension of the writ of habeas corpus, the powers in and concerning such matters herein granted to the President, may be exercised by one of the Cabinet Ministers, who shall act in order of priority and in the manner named in Section 2 of this Article.

SECTION 4. In case of the death, resignation, removal or permanent disability of the President, before six months prior to the expiration of his term, the Minister who shall thereupon act as President, shall, unless the Legislature is in session, immediately summon a special session of the Legislature to meet within thirty days, to elect a President to fill the unexpired term of the President who has died, resigned, been removed or become permanently disabled.

SECTION 5. In case any Minister shall act as President as herein provided, he shall, while so acting, have all the rights and powers and be subject to all the duties and obligations by this Constitution granted to or prescribed for the President.

ARTICLE 37.—EX-OFFICIO MEMBERS OF THE LEGISLATURE.

The members of the Cabinet shall be ex-officio members of both Houses of the Legislature, with all the rights, powers and privileges of elected members, except the right to vote.

---

THE LEGISLATIVE POWER.

ARTICLE 38.—THE LEGISLATURE.

SECTION 1. The Legislative Power of the Republic is vested in a Legislature, and, subject to the limitations herein provided, a Council of State.

The Legislature shall consist of two Houses, styled the Senate and the House of Representatives, which shall organize and sit separately, except as otherwise herein provided.

The two Houses shall be styled "The Legislature of the Republic of Hawaii."

SECTION 2. No person shall sit as a Senator or Representative in the Legislature, unless elected under and in conformity with this Constitution.

ARTICLE 39.—GENERAL ELECTIONS.

SECTION 1. A General Election shall be held on the last Wednesday of September, 1897, and General Elections shall be held on the last Wednesday in September every two years thereafter.

SECTION 2. If from any cause a general election shall not be held at the appointed time, the Minister of the Interior shall without unnecessary delay, appoint another time for the holding of such election.

And the election so held upon such appointment shall be deemed to be a general election.

ARTICLE 40.—SUPREME COURT JUDGE OF QUALIFICATIONS OF MEMBERS.

In case any election to a seat in either House is disputed, and legally contested, the Supreme Court shall be the sole judge of whether or not a legal election for such seat has been held; and, if it shall find that a legal election has been held, it shall be the sole judge of who has been elected.

ARTICLE 41.—BURDEN OF PROOF OF ELIGIBILITY.

In case the eligibility of any person to be a Senator or Representative, or an elector of Senators or Representatives, is questioned by any legal voter, before any Court or tribunal having authority to consider such matter, the burden of proof shall rest upon the person whose eligibility is so questioned to establish his eligibility.

The unsupported statement or oath of the person whose eligibility is so questioned shall not be deemed sufficient to shift the burden of proof; but he shall show by other evidence, to the satisfaction of the Court or tribunal, that he is eligible.

ARTICLE 42.—DISQUALIFICATIONS OF LEGISLATORS.

No member of the Legislature shall, during the term for which he is elected, be appointed or elected to any office of the Government except that of President, Cabinet Minister, Justice of the Supreme Court, or member of the Council of State.

ARTICLE 43.—DISQUALIFICATIONS OF GOVERNMENT OFFICERS AND EMPLOYEES.

Except members of the Council of State, no person holding office in, or under, or by authority of the Government, including Notaries Public and Agents to take Acknowledgments, nor any employee of the Government, shall be eligible to elec-

B

tion to the Legislature or to hold the position of an elected member of the same.

ARTICLE 44.—DISQUALIFICATION OF CERTAIN CLASSES.

No idiot or insane person, and no person who shall be expelled from the Legislature for giving or receiving bribes, or being accessory thereto; and no person who in due course of law shall have been convicted of larceny, bribery, gross cheat, or of any criminal offense punishable by imprisonment, whether with or without hard labor, for a term exceeding two years, whether with or without fine, shall register to vote or shall vote or hold any office in or under or by authority of the Government, unless the person so convicted shall have been pardoned and restored to his civil rights.

ARTICLE 45.—OATH OF OFFICE.

Every elective member of the Legislature shall take the following oath or affirmation:

I solemnly swear (or affirm) in the presence of Almighty God, that I will faithfully support the Constitution and laws of the Republic of Hawaii; and conscientiously and impartially discharge my duties as a member of the Legislature.

ARTICLE 46.—OFFICERS AND RULES.

The Senate and the House of Representatives shall each choose its own officers, determine the rules of its own proceedings, not inconsistent with this Constitution, and keep a journal.

ARTICLE 47.—AYES AND NOES.

The ayes and noes of the members on any question, shall, at the desire of one-third of the members present, be entered on the journal.

## ARTICLE 48.—QUORUM.

SECTION 1. A majority of the number of elective members to which each House is entitled, shall constitute a quorum of such House for the conduct of ordinary business, of which quorum a majority vote shall suffice. But the final passage of a law in each House shall require the vote of a majority of all the members to which such House is entitled.

SECTION 2. A smaller number than a quorum may adjourn from day to day, and compel the attendance of absent members in such manner and under such penalties as each House may provide.

SECTION 3. For the purpose of ascertaining whether there is a quorum present, the chairman shall count the number of members present.

## ARTICLE 49.—PUNISHMENT OF PERSONS NOT MEMBERS.

Each House may punish by fine, or by imprisonment not exceeding thirty days, any person not a member of either House, who shall be guilty of disrespect of such House by any disorderly or contemptuous behavior in its presence; or,

Who shall publish any false report of its proceedings; or,

Who shall, on account of the exercise of any legislative function, threaten harm to the body or estate of any of the members of such House; or,

Who shall assault, arrest or detain any witness or other person ordered to attend such House, on his way going to or returning therefrom; or,

Who shall rescue any person arrested by order of such House.

But the person charged with the offense shall be informed, in writing, of the charge made against him, and have an opportunity to present evidence and be heard in his own defense.

## ARTICLE 50.—COMPENSATION OF MEMBERS.

The members of the Legislature shall receive for their services, in addition to mileage at the rate of ten cents a mile each way, the sum of Four Hundred Dollars for each regular Session of the Legislature, payable in three equal installments on and after the first, thirtieth and sixtieth days of the Session; and the sum of Two Hundred Dollars for each extra Session of the Legislature, except a Session for the sole purpose of electing a President, for which members shall receive mileage only.

## ARTICLE 51.—PUNISHMENT OF MEMBERS.

Each House may punish its own members for disorderly behavior or neglect of duty, by censure, suspension or expulsion.

## ARTICLE 52.—EXEMPTION FROM LIABILITY.

No member of the Legislature shall be held to answer for any words uttered in the exercise of his legislative functions in either House, before any other tribunal.

## ARTICLE 53.—EXEMPTION FROM ARREST.

The members of the Legislature shall, in all cases except treason, felony or breach of the peace, be privileged from arrest during their attendance at the sessions of the respective Houses; and in going to and returning from the same. Provided that such privilege as to going and returning shall not cover a period of over ten days each way.

---

**THE SENATE.**

## ARTICLE 54.—NUMBER OF MEMBERS.

SECTION 1. The Senate shall be composed of fifteen members. The Senators to be elected at the first election held under



this Constitution, shall hold office until the general election held in the year 1899.

#### ELECTIONS.

SECTION 2. Senators shall be elected at the general election to be held on the last Wednesday of September, 1899, in three classes to hold office for two, four and six years respectively, and thereafter in terms of six years. The details of such election and apportionment of terms shall be provided for by the Legislature.

#### VACANCIES.

SECTION 3. Vacancies caused by death, resignation or otherwise, shall be filled for the unexpired term at special elections.

#### ARTICLE 55.—SENATORIAL DISTRICTS.

SECTION 1. For the purpose of representation in the Senate, until otherwise provided by law, the Republic is divided into the following Senatorial Districts, viz:

First District; the Island of Hawaii.

Second District; the Islands of Maui, Molokai, Lanai and Kahoolawe.

Third District; the Island of Oahu.

Fourth District; the Islands of Kauai and Niihau.

SECTION 2. The electors in the said districts shall be entitled to elect Senators as follows:

In the First District, four;

In the Second District, three;

In the Third District, six;

In the Fourth District, two.

## ARTICLE 56.—QUALIFICATIONS OF SENATORS.

In order to be eligible to election as a Senator, a person shall:

Be a male citizen of the Republic;

Have attained the age of thirty years;

Be able understandingly to speak, read and write the English or the Hawaiian language;

Have resided in the Hawaiian Islands not less than three years;

Be the owner, in his own right, of property in the Republic of the value of not less than Three Thousand Dollars over and above all encumbrances; or have been in the receipt of a money income of not less than Twelve Hundred Dollars during the year immediately preceding the date of the election, for the proof of which he may be required to produce original accounts of the receipt of such income.

---

THE HOUSE OF REPRESENTATIVES.

## ARTICLE 57.—NUMBER OF REPRESENTATIVES.

SECTION 1. The House of Representatives shall be composed of fifteen members, elected, except as herein provided, every second year.

## TERM OF OFFICE.

SECTION 2. The term of office of the Representatives elected at the first election held under this Constitution, shall extend to the last Wednesday in September, 1897, and the term of those thereafter elected at general or special elections, shall be until the next general election held thereafter.

VACANCIES.

SECTION 3. Vacancies caused by death, resignation or otherwise, shall be filled for the unexpired term at special elections.

REPRESENTATIVE DISTRICTS.

SECTION 4. For the purpose of representation in the House of Representatives, until otherwise provided by law the Republic is divided into the following Representative Districts, viz.:

First District; that portion of the Island of Hawaii known as Puna, Hilo and Hamakua.

Second District; that portion of the Island of Hawaii known as Kau, Kona and Kohala.

Third District; the Islands of Maui, Molokai, Lanai and Kahoolawe.

Fourth District; that portion of the Island of Oahu lying east and south of Nuuanu street, and a line drawn in extension thereof from the Nuuanu Pali to Mokapu point.

Fifth District; that portion of the Island of Oahu lying west and north of the fourth district.

Sixth District; the Islands of Kauai and Niihau.

APPORTIONMENT.

SECTION 5. The electors in the said districts shall be entitled to elect Representatives as follows:

In the First District, two;

In the Second District, two;

In the Third District, three;

In the Fourth District, three;

In the Fifth District, three;

In the Sixth District, two.

## ARTICLE 58.—QUALIFICATIONS OF REPRESENTATIVES.

In order to be eligible to be a member of the House of Representatives, a person shall, at the time of election;

Have attained the age of twenty-five years;

Be a male citizen of the Republic;

Be able understandingly to read, write and speak the English or Hawaiian language;

Have resided in this country not less than three years;

And shall either own property in the Republic worth not less than One Thousand Dollars over and above all encumbrances, or have received a money income of not less than Six Hundred Dollars during the twelve months immediately preceding the date of election.

---

 LEGISLATION.

## ARTICLE 59.

The Legislature has the power to enact wholesome Laws not inconsistent with this Constitution.

## ARTICLE 60.—SESSIONS OF THE LEGISLATURE.

SECTION 1. The first regular Session of the Legislature shall be held on the third Wednesday in February, 1896, and biennially thereafter, in Honolulu.

SECTION 2. Neither House shall adjourn, during any session, for more than three days, or sine die, without the consent of the other.

SECTION 3. If either House shall so adjourn without the consent of the other, the other House may proceed to legislate as though it were the sole legislative body, and may exercise the full powers of the Legislature.

SECTION 4. Each session of the Legislature shall continue not longer than ninety days, excluding Sundays and holidays.

Provided however, that the President, with the approval of the Cabinet, may extend such session for not more than thirty days.

SECTION 5. Special sessions of the Legislature shall be held at such times as may be indicated by the President in manner herein provided; or upon the call of the Presiding Officer of the Senate, when requested in writing so to do by two-thirds of the members of the Senate; or at such other times as are herein specially provided.

ARTICLE 61.—ENACTING CLAUSE.

The Enacting Clause of all Laws shall be, "Be it enacted by the Legislature of the Republic of Hawaii."

ARTICLE 62.—INTRODUCTION OF BILLS.

No bill shall be introduced into either House by any member of such House, unless it shall have first received thereon the written endorsement of three members of such House.

ARTICLE 63.—TITLE OF LAWS.

Each Law shall embrace but one Subject, which shall be expressed in its Title.

The Title of a Law amending or repealing another law shall refer to the section or chapter of the law amended or repealed, and to the subject-matter involved.

ARTICLE 64.—READINGS OF BILLS.

A Bill, in order to become law, shall, except as herein provided, pass three readings in each House, the final passage of which in each House, shall be by a majority vote of all the

elective members to which such House is entitled, taken by ayes and noes and entered upon its journal.

ARTICLE 65.—CERTIFICATION OF BILLS FROM ONE HOUSE TO THE OTHER.

Every Bill when passed by the House in which it originated, or in which amendments thereto shall have originated, shall immediately be certified by the Chairman and Clerk and sent to the other House for consideration.

ARTICLE 66.—SIGNING BILLS.

Except as herein provided, all Bills passed by the Legislature shall, in order to be valid, be signed by the President.

ARTICLE 67.—VETO OF PRESIDENT.

Every Bill which shall have passed the Legislature shall be certified by the Chairman and Clerk of the House last considering it, and shall thereupon be presented to the President. If he approves it, he shall sign it and it shall become a law. If the President does not approve such bill, he may return it with his objections, to the Legislature.

He may veto any specific item or items in any bill which appropriates money for specific purposes; but shall veto other bills, if at all, only as a whole.

ARTICLE 68.—PROCEDURE UPON RECEIPT OF VETO.

Upon the receipt of a veto message from the President, each House of the Legislature shall enter the same at large upon its journal, and proceed to reconsider such bill, or part of a bill, and again vote upon it by ayes and noes, which shall be entered upon its journal.

If after such reconsideration such bill, or part of a bill, shall

be approved by a two-thirds vote of all the elective members to which each House is entitled it shall thereby become law.

ARTICLE 69.—FAILURE TO SIGN OR VETO.

If the President neither signs nor vetoes a bill within ten days after it is delivered to him, it shall become law without his signature, unless the Legislature adjourns sine die prior to the expiration of such ten days.

In computing such period of ten days, Sundays, holidays recognized by the laws of the Republic, and the day upon which the bill is delivered to the President shall be excluded.

ARTICLE 70.—APPROPRIATIONS.

SECTION 1. Appropriations, except as otherwise herein provided, shall be made biennially by the Legislature.

SECTION 2. The Minister of Finance shall submit to the Senate, at each regular session of the Legislature, Appropriation Bills for the succeeding biennial period.

SECTION 3. No Appropriation Bill or bill providing for a national loan shall be introduced by any one except a member of the Cabinet.

Provided however, that any member may introduce a bill amending the permanent appropriation bill for salaries and pay rolls herein provided for.

SECTION 4. In case of a failure of the Legislature to pass Appropriation Bills providing for payments of the necessary current expenses of carrying on the Government, and meeting its legal obligations, the Minister of Finance may, with the advice of the Executive Council, make such payments for and during the new biennial period, for which purpose the sums appropriated in the last appropriation bill shall be deemed to have been re-appropriated.

SECTION 5. The appropriation bill for salaries and pay rolls shall be a permanent one, and the items and amounts therein enumerated, and such salaries and pay rolls as may hereafter be incorporated therein, shall continue, until stricken out or amended, to be the basis for payment in future, and shall not be required to be re-appropriated from time to time.

SECTION 6. The appropriation bill for salaries and pay rolls passed on the 26th day of April, 1894, shall continue in force, and be the permanent appropriation bill for the purposes therein set forth, subject to such amendments and additions thereto, as may from time to time be made by the Legislature.

#### ARTICLE 71.—RETROSPECTIVE LAWS.

Except as herein provided, no Retrospective Law shall ever be enacted.

---

### ELECTIONS.

#### ARTICLE 72.—EXEMPTION OF ELECTORS ON ELECTION DAY.

SECTION 1. Every Elector shall be privileged from arrest on election day, during his attendance at election, and in going to and returning therefrom, except in case of breach of the peace then committed, or in case of treason or felony.

SECTION 2. No elector shall be so obliged to perform military duty on the day of election, as to prevent his voting, except in time of war or public danger, or in case of absence from his place of residence in actual military service, in which case provision may be made by law for taking his vote.

#### ARTICLE 73.—METHOD OF VOTING FOR REPRESENTATIVES.

Each voter for Representatives may cast as many votes as there are Representatives to be elected from the Representative



District in which he is entitled to vote. He may cast them all for one Representative, or may apportion them among the several Representatives in such manner as he sees fit; provided however, that any fractional division of a vote other than one-half shall be void.

The required number of candidates receiving the highest number of votes in the respective Representative Districts shall be the Representatives for such Districts.

ARTICLE 74.—QUALIFICATIONS OF VOTERS FOR REPRESENTATIVES.

In order to be eligible to vote for Representatives, a person shall:

1. Be a male citizen of the Republic; and if naturalized prior to January 17th, 1893, be a native of a country having, or having had treaty relations with Hawaii; or,

Have received special letters of denization entitling him to all the privileges of Hawaiian citizenship; or,

Have received from the Minister of the Interior the Certificate of Service herein provided for;

2. Have resided in the Representative District in which he offers to register, not less than one month immediately preceding the time at which he offers to register;

3. Have attained the age of twenty years;

4. Have taken and subscribed the oath set forth in Article 101 of this Constitution;

5. Prior to each regular election, during the time prescribed by law for registration, have caused his name to be entered on the Register of Voters for Representatives for his district;

6. Prior to such registration have paid, on or before the first day of January next preceding the date of registration, all taxes due by him to the Government. Provided however, that for the registration for the first election held under the provis-

ions herein, taxes may be paid at any time prior to the application for registration;

7. Be able understandingly to speak, read and write the English or Hawaiian language.

In order to comply with this requirement he shall be able to read and write, with ordinary fluency any section or sections of this Constitution.

Provided however, that the requirement that he shall be able understandingly to speak, read and write the English or Hawaiian language, shall not apply to those persons who shall obtain the certificate of service as provided for in Article 17.

#### ARTICLE 75.—METHOD OF VOTING FOR SENATORS.

Each voter for Senators may cast one vote only for each Senator to be elected from the Senatorial District in which he is entitled to vote.

The required number of candidates receiving the highest number of votes in the respective Senatorial Districts shall be the Senators for such District.

#### ARTICLE 76.—QUALIFICATIONS OF VOTERS FOR SENATORS.

In order to be eligible to vote for Senators, a person must possess all the qualifications and be subject to all the conditions required by this Constitution of voters for Representatives, and, in addition thereto, he shall own and be possessed in his own right, of real property in the Republic of the value of not less than Fifteen Hundred Dollars over and above all encumbrances, and upon which legal taxes shall have been paid on that valuation for the year next preceding the one in which such person offers to register; or personal property of the value of not less than Three Thousand Dollars over and above all encumbrances; or shall have actually received a money income of not less than Six Hundred Dollars during the year next preceding the first

day of April next preceding the date of each registration; for the proof of which he may be required to produce original accounts of the receipt of such income.

---

## REGISTRATION OF VOTERS.

### ARTICLE 77.

SECTION 1. No person shall vote for the election of Representatives or Senators unless he is qualified as herein required, and unless his name is entered by a Board of Registration upon the Register of Voters as herein provided.

### REGISTRATION BOARDS.

SECTION 2. For the purpose of examining applicants for registration as voters and determining their eligibility, there shall be five Boards of Registration, one for that portion of the Island of Hawaii known as Puna, Hilo and Hamakua; one for that portion of the Island of Hawaii known as Kau, Kona and Kohala; one for the Islands of Maui, Molokai, Lanai and Kahoolawe; one for the Island of Oahu; and one for the Islands of Kauai and Niihau. Such Boards shall consist of three members each, who shall be appointed by the President with the approval of the Senate. The President, subject to such approval, may fill all vacancies in any of such Boards. Provided however, that for the first election held under this Constitution, the President with the approval of the Cabinet shall have the power to appoint and remove the members of such Boards, and with like approval may fill any vacancies in such Boards which shall occur before the first meeting of the Senate. Appointments made by the President during a vacation of the Senate shall be valid until the succeeding meeting of that body.

Members of any such Boards may be removed by the President with the approval of the Senate.

## TIME OF MEETING.

SECTION 3. The Boards of Registration shall meet within thirty days after this Constitution takes effect, for the purpose of registering persons entitled to be registered to vote for Senators and Representatives, and shall continue to meet at such points within their respective districts, for such time as will give all persons entitled to register a reasonable opportunity so to do. Provided however, that the final sitting of such Boards shall not be less than twenty-one days.

SECTION 4. The Boards shall meet within their respective districts at such times between the first day of April and the thirtieth day of June in the year 1897, and between such days in each second year thereafter, as many times as may be necessary to enable them to register all persons entitled to register.

## REGISTER AT SPECIAL ELECTIONS.

SECTION 5. At any intermediate special election the Register of Voters used at the last preceding general election shall be used without change.

## PERSONAL APPEARANCE OF APPLICANT.

SECTION 6. No name shall be placed upon the Register of Voters for either Senators or Representatives, except upon the personal appearance of the applicant before the Board of Registration at an advertised public meeting of the Board.

## EXAMINATION OF APPLICANTS.

SECTION 7. Each Applicant to be placed upon the Register of Voters for either Senators or Representatives shall, upon each application for registration be examined under oath by the Board of Registration as to each one of the required qualifications.

Provided however, that after an Applicant shall once have passed an examination concerning his ability understandingly to speak, read and write the English or Hawaiian language, it shall be at the discretion of the Board to examine him further or not, concerning such qualification.

The examination of the applicant, and of all witnesses examined before any Board of Registration, shall be under oath, administered by any of the members of such Board, who are hereby authorized to administer oaths for such purpose.

The examination, number of witnesses, and time or times of examination, shall be under the reasonable control and discretion of the Board.

#### POWERS OF BOARD.

SECTION 8. Each Board of Registration is hereby given all of the powers and authority, for the summoning and examination of witnesses and the maintenance of order, including the power to punish for contempt, given by law to Circuit Courts.

#### PERJURY.

SECTION 9. Any person who shall, under oath, knowingly make any false statement before any such Board, or who, knowing that he is not entitled to register or to vote, shall so register or vote, shall be guilty of the offense of Perjury.

#### SUMMARY COMMITTAL FOR PERJURY.

SECTION 10. The several Boards are hereby given power to summarily commit any person for trial for perjury committed before any such Board, if, in their opinion, there is probable cause to believe that, upon the trial, such person would be convicted of such offense.

## CHALLENGING.

SECTION 11. Any lawful voter may challenge the right to register of any person claiming to be eligible to register as a voter; cross-examine the applicant and any witnesses produced by him, and produce and examine witnesses against such eligibility.

SECTION 12. No Board of Registration shall enter the name of any person upon the Register of voters until satisfied that such person possesses the requisite qualifications.

## APPEAL FROM BOARD.

SECTION 13. If any Board shall refuse to register the name of any person applying to be registered, the person refused, and, in case any name has been registered, any legal voter, may, at any time within ten days after the decision of such Board, appeal to the Supreme Court in the manner provided by law for civil appeals to the Supreme Court from the Circuit Court, or in such manner as may hereafter be provided by law.

SECTION 14. Upon such appeal being perfected, the Supreme Court shall proceed to hear such cause either in term time or in vacation, as soon thereafter as reasonably may be; and the determination by such Court of such question shall be final.

## NOTICE OF DECISION TO BOARD.

SECTION 15. Immediately upon rendering a decision upon any such appeal, the Supreme Court shall notify the Board of Registration from which such appeal was taken; and if such decision shall reverse the decision of the Board, such Board shall immediately cause the Register to be corrected to conform with such decision.

STATUS OF PERSON REGISTERED PENDING APPEAL.

SECTION 16. In case of an appeal from a decision of any Board admitting the name of any person to registration, the name of such person shall remain upon the Register pending the decision of the Supreme Court concerning the same.

If the person so registered shall vote at any election before a decision of the Court shall have been made and acted upon, such vote shall not invalidate such election, even though the decision of the Court shall be adverse to the registration of such name.

NOTICE OF MEETINGS.

SECTION 17. The time and place of all meetings of the several Boards shall be advertised in the English and Hawaiian languages, in newspapers, or by notices posted in at least three frequented places in the locality where such meetings are to be held.

This section shall not be construed to prohibit the adjournment of any such advertised meeting from day to day to a time certain, announced at the time of adjournment.

TIME OF REGISTERING.

SECTION 18. No name shall be registered or stricken from the Register except in an open meeting of the Board and upon public announcement, except for the following causes, viz.:

1. In case the Supreme Court shall render a decision upon appeal, reversing the decision of the Board.
2. In case the Board has decided that a person is entitled to registration and his name has been accidentally omitted from the Register, mis-spelled, or he has therein been misnamed.

COPIES OF REGISTER TO BE SENT TO INSPECTORS OF ELECTION.

SECTION 19. The respective Boards shall, as soon as reason-

ably may be after the Register of Voters for any voting precinct is completed, prepare four copies thereof and forward them to the Chairman of Inspectors of Election for such precinct; or, in case such officer shall not then have been appointed, to the Deputy Sheriff of the District in which such precinct is located.

The officer receiving such copies shall retain one for use at the election, and immediately post the other copies in three frequented places within the precinct, for the inspection of the public.

#### INSPECTORS NOT TO CHANGE REGISTERS.

SECTION 20. No name shall be added to or stricken from the Register of Voters, or in any manner changed by the Inspectors of Election, except upon the written order of the Board of Registration for such District.

#### CORRECTION OF REGISTER.

SECTION 21. If it shall be manifest to any Board, at any time, that the name of a person admitted to registration has been accidentally omitted from the Register or mis-spelled, or that he has been misnamed therein, such Board shall immediately remedy such omission or mistake; and, if a copy of the Register has been sent to the election precinct in which such person is entitled to vote, shall immediately in writing, order the Inspectors of Election for such precinct to correct such copy of the Register.

Such order shall set forth the reasons for the action directed to be taken, and shall be retained and filed by the Inspectors of Election as a part of the records of the election.

The power of revision and correction hereby conferred, shall not be construed to allow the reopening of the question of the qualifications of any person registered by the Board.

#### RECORD OF PROCEEDINGS.

SECTION 22. The several Boards shall each keep books of



record in which minutes shall be preserved of all their proceedings.

ARTICLE 78.—REPEAL OF ELECTION LAWS.

All election laws in force when this Constitution is promulgated are hereby repealed.

ARTICLE 79.—RULES AND REGULATIONS FOR OATHS AND ELECTIONS.

Until otherwise provided by law the President, with the approval of the Cabinet, shall have power to make rules and regulations not inconsistent herewith, for administering oaths and holding elections provided for by this Constitution.

ARTICLE 80.—FIRST ELECTION.

The first election of the Legislature shall be held at such time and places, within four months after the promulgation of this Constitution, as shall be directed by the President, with the approval of the Cabinet.

---

COUNCIL OF STATE.

ARTICLE 81.—HOW CONSTITUTED.

SECTION 1. There shall be a Council of State of fifteen members, five of whom shall be elected by the Senate, five by the House of Representatives, and five appointed by the President with the approval of the Cabinet. The members of the Executive Council may sit and take part in the meetings of the Council of State, but shall not vote.

SECTION 2. The Council of State shall be elected and appointed during the first session of the Legislature; and at each regular session held thereafter.

## TERM OF OFFICE.

SECTION 3. The term of office of the members thereof shall expire at the end of each regular session of the Legislature held after their election.

## VACANCIES—HOW FILLED.

SECTION 4. Vacancies among the elective members of the Council occurring between sessions of the Legislature may be filled by the Council.

Vacancies among the appointed members of the Council occurring at any time, may be filled by the President with the approval of the Cabinet.

## QUALIFICATIONS OF MEMBERS.

SECTION 5. Persons who are eligible to become elective members of the Legislature, or who are such members, and no others, shall be eligible to be elected or appointed as members of the Council.

## POWERS OF COUNCIL OF STATE.

SECTION 6. The Council of State may, upon the request of the Executive Council, appropriate public moneys, when, during the time intervening between the sessions of the Legislature, the emergencies of war, invasion, rebellion, pestilence or other great public necessity shall arise.

In case of such appropriation, the Minister of Finance shall render a detailed account of the expenditures made under such authority to the next regular session of the Legislature.

## PARDONS.

SECTION 7. The President, by and with the advice of the Cabinet and the Council of State, shall have the power to grant

reprieves and pardons and to commute sentences, after conviction, for all offenses except in cases of impeachment.

ADVISORY POWERS.

SECTION 8. The Council of State shall also, when called upon by the President, advise him in all matters for the good of the State, wherein he shall require its advice.

MEETINGS.

SECTION 9. The Council of State may be convened at any time by the President. Its members shall serve without pay.

---

THE JUDICIAL POWER.

ARTICLE 82.

The Judicial Power of the Republic shall be vested in one Supreme Court, and in such Inferior Courts as the Legislature may, from time to time, establish.

ARTICLE 83.—SUPREME COURT—IMPEACHMENT—REMOVAL.

SECTION 1. The Supreme Court shall consist of a Chief Justice and not less than two Associate Justices. Provided however, that in case of the disqualification or absence of any Justice thereof, in any cause pending before the Court, his place for the trial and determination of said cause shall be filled as provided by law.

SECTION 2. The Justices of the Supreme Court shall hold their offices during good behavior, subject to removal upon im-

peachment, and shall receive for their services a compensation which shall not be diminished during their continuance in office. Provided however, that any Justice of the Supreme Court, or a Judge of any other Court of Record, upon recommendation of the Executive Council, may be removed from said office on a resolution passed by two-thirds of all the elective members of the Legislature sitting together.

SECTION 3. The Justice or Judge against whom the Legislature may be about to proceed, shall have notice thereof, accompanied by a copy of the causes alleged for his removal at least ten days before the day on which the Legislature shall act thereon. He shall be heard before the Legislature.

#### ARTICLE 84.—SUPREME AND INFERIOR COURTS.

The Judicial Power shall be divided among the Supreme Court, the Justices thereof, and the several Inferior Courts of the Republic in such manner as the Legislature may, from time to time, prescribe; and the tenure of office of the Judges of the Inferior Courts shall be such as may be fixed by the law creating them.

#### ARTICLE 85.—JURISDICTION.

The judicial power shall extend to all cases in law and equity, arising under the Constitution and Laws of the Republic, and Treaties; to all cases affecting Public Ministers and Consuls, and to all cases of Admiralty and Maritime Jurisdiction.

#### ARTICLE 86.—DECISIONS.

The Decisions of the Supreme Court shall be final and conclusive upon all parties, when made by a majority of the Justices thereof or by a majority of those who constitute the Court as provided by law in case a Justice thereof is disqualified or absent.

## ARTICLE 87.—OPINIONS TO THE EXECUTIVE.

The Justices of the Supreme Court, when requested by the President or the Cabinet, shall render opinions upon questions of law upon solemn occasions.

## ARTICLE 88.—DISQUALIFICATION BY PREVIOUS JUDGMENT.

No Judge or Magistrate shall sit on an appeal or new trial, in any case in which he may have given a previous judgment.

## ARTICLE 89.—DISQUALIFICATION BY RELATIONSHIP OR PECUNIARY INTEREST.

No person shall sit as a judge or juror in any case in which his relative by affinity, or by consanguinity within the third degree, is interested, either as plaintiff or defendant, or in the issue of which the said judge or juror may have, either directly or through such relative any pecuniary interest.

## ARTICLE 90.—IMPEACHMENT.

SECTION 1. The President and all civil officers of the Republic shall be liable to removal from office on impeachment by the House of Representatives upon any of the following grounds, namely:

Any act or negligence involving moral turpitude punishable by law as an offense and committed while in office, incapacity for the due performance of official duty, maladministration in office, and assessment of office-holders for partisan or political expenses.

SECTION 2. The Senate shall be a Court, with full and sole authority to hear and determine all impeachments made by the House of Representatives.

SECTION 3. The Chief Justice of the Supreme Court shall be ex-officio President of the Senate in all cases of impeach-

ment, unless when impeached himself. Should the Chief Justice be impeached, some person specially commissioned by the President shall preside over the Senate during such trial.

SECTION 4. Previous to the trial of any impeachment the Senators shall respectively be sworn truly and impartially to try and determine the charge in question according to law and the evidence.

SECTION 5. The judgment of the Senate, in case of the conviction of the person impeached, shall not extend further than to removal from office and disqualification to hold any place of honor, trust or profit under the Republic; but the person so convicted shall be, nevertheless, liable to indictment, trial, judgment, and punishment according to law.

---

### MISCELLANEOUS PROVISIONS.

#### ARTICLE 91.—CONSTITUTION SUPREME LAW.

This Constitution when promulgated, shall thereupon become the Supreme Law of the Republic, and the Constitution promulgated on the 7th day of July, 1887, and all other Constitutions at any time the Supreme Law in the Hawaiian Islands, and also all Laws and parts of Laws inconsistent herewith, are hereby expressly abrogated and are declared to be null and void.

#### ARTICLE 92.—EXISTING STATUTES AND OFFENSES.

SECTION 1. All statutes and enactments in force in the Hawaiian Islands at the time this Constitution takes effect, not inconsistent therewith, and all rights, actions, prosecutions, judgments and contracts then existing and valid, shall continue as if this Constitution had not been adopted, unless the same are inconsistent with this Constitution, or are herein specifically abrogated, or are otherwise herein provided for.

SECTION 2. Statutes heretofore enacted, which are not inconsistent herewith, which refer to the King, or the Government, or the Kingdom, or to the Provisional Government, shall be construed to refer to the President, or to the Republic or Government of the Republic of Hawaii, as the case may be.

All acts which, by statute in force at the time when this Constitution takes effect, have heretofore been defined to be offenses against the King, or the Provisional Government, or otherwise, shall be deemed to be offenses against the Republic or Government of Hawaii, unless such statute shall be inconsistent herewith, or shall be repealed or changed by law.

Acts heretofore committed, which were prohibited by statutes existing at the time such acts were committed, shall be punishable under said statutes the same being construed as above provided.

SECTION 3. All criminal and penal proceedings arising or now depending within the limits of the Hawaiian Islands shall be prosecuted to final judgment and execution in the name of the Republic of Hawaii; and all causes of action arising to individuals or corporations, and all actions at law and suits in equity now depending in the several courts within the limits of the Hawaiian Islands, not already barred by law, may be commenced or carried on to final judgment and execution in the corresponding courts of the Republic.

The style of all processes shall be "The Republic of Hawaii," and all prosecutions shall be carried on in the name and by the authority of the Republic of Hawaii.

Nothing in this Constitution contained shall be the basis or ground for a writ of error or habeas corpus or certiorari or prohibition or quo warranto, nor for an appeal in any pending judicial proceeding, and all process heretofore issued, or which may be issued prior to the day when this Constitution shall go into effect, shall be as valid as if issued in the name of the Republic of Hawaii; but such writs or appeals shall lie in respect of all judgments, decrees, orders or other proceedings heretofore

made or had or pending in the several courts of the Hawaiian Islands, in conformity with the laws in force when such writs, decrees, orders or other proceedings were made or were pending.

ARTICLE 93.—OFFICE HOLDERS.

SECTION 1. All persons holding office under the Provisional Government of the Hawaiian Islands, at the date of the promulgation of this Constitution, shall continue to hold and exercise all the power to them granted until their respective offices shall become vacant.

SECTION 2. All commissions issued by or under authority of the late Monarchy, or of the Provisional Government of the Hawaiian Islands, are hereby declared to be vacated, null and void, from and after the first day of September, 1894, unless cancelled prior to that date.

ARTICLE 94.—TREATIES, BONDS, ETC., CONFIRMED.

All existing treaties and all bonds and notes heretofore made or authorized under the authority of the late Monarchy or of the Provisional Government of Hawaii, and all obligations of the Postal Savings Bank are hereby recognized, ratified and confirmed.

ARTICLE 95.—CROWN LAND.

That portion of the public domain heretofore known as Crown Land is hereby declared to have been heretofore, and now to be, the property of the Hawaiian Government, and to be now free and clear from any trust of or concerning the same, and from all claim of any nature whatsoever, upon the rents, issues and profits thereof. It shall be subject to alienation and other uses as may be provided by law. All valid leases thereof now in existence are hereby confirmed.



## ARTICLE 96.—MAJORITY RULE.

The approval, concurrence, consent, advice, agreement or action of the Legislature or either House thereof, or of the Executive Council or of the Council of State, or of any Board of Registration or other public Board, shall not for its validity require the assent of more than a majority, unless otherwise herein required; but in respect of the Executive Council such majority shall be required to include the President.

## ARTICLE 97.—NO PUBLIC AID TO SECTARIAN OR PRIVATE.

## SCHOOLS.

From and after December 31st, 1895, no public money shall be appropriated nor public land conveyed to or for the support or benefit of any sectarian, denominational or private school, or any school not under the exclusive control of the Government.

## ARTICLE 98.—LOTTERIES.

No lottery shall be authorized in this Republic, nor shall the sale of lottery tickets be allowed.

ARTICLE 99.—GOVERNMENT OFFICERS NOT TO TAKE FOREIGN  
EMPLOYMENT.

No officer of the Republic nor member of the Legislature shall hold any office or receive any pay from any other Government or Power whatever.

## ARTICLE 100.—ADVISORY COUNCIL.

Until the convening of the first Legislature, in either special or regular session, the members of the Advisory Council of the Provisional Government of the Hawaiian Islands shall constitute a council to be styled the "Advisory Council of the Republic of Hawaii."

The Advisory Council of the Republic of Hawaii and the Executive Council, sitting together, shall be vested with all the powers, and authority heretofore vested in the Executive and Advisory Council of the said Provisional Government, and also all the powers and authority by this Constitution granted to the Senate or to the Legislature.

Such convening of the Legislature shall thereby terminate the existence, power and authority of the Advisory Council.

ARTICLE 101.—OATH OF OFFICERS, ELECTORS, LEGISLATORS  
AND JURORS.

No person shall be eligible to be an Officer, Senator or Representative under the Republic, or an Elector of Senators or Representatives, or a Juror, until he shall have taken and subscribed the following oath or affirmation, viz: I do solemnly swear, (or affirm,) in the presence of Almighty God, that I will support the Constitution, Laws and Government of the Republic of Hawaii; and will not, either directly or indirectly, encourage or assist in the restoration or establishment of a Monarchical form of Government in the Hawaiian Islands.

ARTICLE 102.—INTERPRETATION.

Wherever the word "herein" is used in this Constitution it shall be deemed to mean and include anything contained in this Constitution or any article or clause thereof, unless the context indicates another construction thereof.

The Titles to Articles and Sections of this Constitution shall not be construed to be a part thereof.

## AMENDMENT OR REVISION OF THE CONSTITUTION.

## ARTICLE 103.

SECTION 1. This Constitution may be amended or revised in the following manner and no other.

SECTION 2. Amendments to this Constitution or a revision thereof, may be proposed by not less than five members of either House at any regular session of the Legislature.

SECTION 3. In order to pass any amendment or revision it shall receive three readings in each House, at each of which readings it shall receive an affirmative vote in each House of not less than a majority of the elective members to which such House is entitled.

The vote shall be taken by a call of the ayes and noes, which, with the proposed amendment or revision, shall be entered on the journal.

SECTION 4. Upon the passage by the Legislature of any amendment or revision of the Constitution as aforesaid, it shall be the duty of the Minister of the Interior to publish such amendment or revision weekly, for the twelve weeks next preceding the succeeding general election to the Legislature, in not less than two newspapers published in Honolulu in the English and Hawaiian languages respectively.

SECTION 5. Such amendment or revision shall be considered by the Legislature at its first regular session following the succeeding general election; and, in order to be finally adopted, shall receive three readings, on different days, in each House, at the first and second of which readings it shall receive an affirmative vote in each House of a majority of the elective members to which such House is entitled; and at the last of which readings it shall receive an affirmative vote in each

House, of not less than two-thirds of the elective members to which such House is entitled.

The voting shall be taken by a call of ayes and noes, which, together with the proposed amendment or revision, shall be entered in the journal.

SECTION 6. Each amendment shall be considered and voted upon separately, in each session of the Legislature in which it shall come up for consideration, as herein provided.

SECTION 7. In case of a proposed revision of the Constitution, each component part of such revision forming a separate proposition, shall, in like manner, be considered and voted on separately, except upon the final reading at the second session of the Legislature at which such revision shall be considered, when it shall be voted on as a whole.

SECTION 8. Any amendment or revision which shall have been adopted in manner aforesaid by two successive Legislatures, shall thereupon and without further act, become a part of the Constitution of the Republic.

The Constitutional Convention, convened in Honolulu, Island of Oahu, Hawaiian Islands, on 30th day of May, A. D. 1894, pursuant to the provisions of Act 69 of the Acts of the Provisional Government of the Hawaiian Islands, entitled "An Act to Provide for a Constitutional Convention," approved the 15th day of March, A. D. 1894, and pursuant to the Proclamation of the President summoning said Convention to assemble, having framed and adopted the Constitution hereinbefore set forth; now it is hereby declared, enacted and proclaimed by the Executive and Advisory Councils of the Provisional Government and by the elected Delegates, constituting said Constitutional Convention, that on and after the Fourth day of July, A. D. 1894, the said Constitution shall be the Constitution of the Republic of Hawaii and the Supreme Law of the Hawaiian Islands.

Done in Convention by unanimous consent this third day of

July, A. D. One Thousand Eight Hundred and Ninety-Four,  
in witness whereof we have hereunto subscribed our names.

SANFORD B. DOLE,

*President of the Provisional Government.*

WILLIAM CHAUNCEY WILDER,

*Vice-President.*

FRANCIS MARCH HATCH,

*Minister of Foreign Affairs.*

JAMES ANDERSON KING,

*Minister of the Interior.*

SAMUEL MILLS DAMON,

*Minister of Finance.*

WILLIAM OWEN SMITH,

*Attorney-General.*

WILLIAM FESSENDEN ALLEN,

CRISTAL BOLTE,

CECIL BROWN,

JOHN EMMELUTH,

JOHN ENA,

JOHN A. McCANDLESS,

JOSEPH P. MENDONCA,

JAMES FRANCIS MORGAN,

JOHN NOTT,

DAVID BOWERS SMITH,

EDWARD DAVIES TENNEY,

HENRY WATERHOUSE,

ALEXANDER YOUNG,

LEMUEL CLARK ABLES,

HENRY PERRINE BALDWIN,

CHARLES LUNT CARTER,

ANTONIO FERNANDES,

D

WILLIAM HORNER,  
JOSE KEKAHUNA IOSEPA,  
DAVID HAILI KAHAULELIO,  
JOHN WILLIAM KALUA,  
JOHN KAUHANE,  
ALBERT KUKAILIMOKU KUNUIAKEA,  
FREDERICK S. LYMAN,  
WILLIAM FAWCETT POGUE,  
WILLIAM HYDE RICE,  
ALEXANDER GEORGE MORISON ROBERTSON,  
JOHN MARK VIVAS,  
ALBERT SPENCER WILCOX,  
GEORGE NORTON WILCOX,

Attest:

CHARLES T. RODGERS,  
*Secretary of Convention.*

THE PENAL LAWS  
OF THE  
HAWAIIAN ISLANDS.

Being the Penal Code of 1868, as amended by the Session Laws of 1870 to 1896 inclusive.

---

ENACTING CLAUSE.

*Be it Enacted by the King and the Legislative Assembly of the Hawaiian Islands, in the Legislature of the Kingdom Assembled.*

§1. The Code of Penal Laws of the Kingdom, as compiled and published under the direction of the Judges of the Supreme Court, in conformity with the Act approved upon the twenty-second day of June, in the year one thousand eight hundred and sixty-eight, is hereby declared to be the law of the land, and shall be respected accordingly in all the Courts of the Kingdom.

*Note:* This is S. L. 1870, Ch. 1.

Cases in Hawaiian Reports: R. v. Parsons, 10 Haw. 601.

## CHAPTER 1.

## DEFINITIONS.

§2. The term *offense*, as used in this code, means the doing what a penal law forbids to be done, or omitting to do what it commands.

§3. The terms *felony* and *crime*, are, within the meaning of the provisions of this code, synonymous, and mean such offenses as are punishable with death, or imprisonment for a longer period than two years, or by the forfeiture of any civil or political right, and also larceny. Any offense not appearing to be a felony or crime is a misdemeanor.

§4. Malice in respect to the commission of any offense, except in cases where it is otherwise expressly provided or plainly intended, includes not only hatred, ill-will and desire of revenge; but cruelty of disposition or temper; and also a motive or desire of gain or advantage to the offender or another; or of doing a wrong or injury to any person or persons, or to the public. It also includes the acting with a heedless, reckless disregard or gross negligence of the life or lives, the health or personal safety, or legal rights or privileges of another or others, many or few, known or unknown: also the willful violation of a legal duty or obligation, and willful contravention of law.

§5. Each of the terms *or* and *and*, has the meaning of the other or of both, where the subject matter, sense and connection require such construction.

§6. Words in the masculine gender signify both the masculine and feminine gender, and those in the singular or plural



number signify both the singular and plural number, and words importing adults signify youths or children, where, from the subject matter, the sense, and the connection in which the words are used, such construction appears to be intended.

§7. Words importing persons, for instance, *another*, *others*, *any*, *any one*, *anybody*, and the like, signify not only persons, but corporations, societies, communities, assemblies, inhabitants of a district or neighborhood, or persons known or unknown, and the public generally where it appears, from the subject matter, the sense, and the connection in which such words are used, that such construction is intended.

## NOTE TO CHAPTER 1.

§§2-7 are P. C. Ch. 1, unaltered.

Cases in Hawaiian Reports: *Re Brito*, 7 Haw. 43; *R. v. Lau Chew*, 8 Haw. 374. *R. v. Young Hee*, 10 Haw. 114.

## CHAPTER 2.

## GENERAL PROVISIONS.

§8. No person shall be subject to punishment for any offense, except on due and legal conviction thereof in a Court having jurisdiction of the case.

§9. No person shall be subject to be tried and sentenced to be punished in any Court, for an alleged offense, unless upon indictment, except for offenses within the jurisdiction of a Police Court or District Justice, or in summary proceedings for contempt.

§10. In the trial of any person on the charge of any offense, he shall have a right to meet the witnesses, who are produced against him, face to face; to produce witnesses and proofs in his own favor; and by himself or his counsel, to examine the witnesses produced by himself, and cross-examine those produced against him; and to be heard in his defense.

§11. No person shall be convicted of any offense, for which by law he is entitled to trial by jury, unless on confession thereof in open Court, or admission thereof by his plea, or by the verdict of the jury.

§12. No person shall be required to answer again for an offense, for which he has once been duly convicted, or of which he has been duly acquitted upon a good and sufficient indictment.

§13. A party accused shall be presumed innocent; and in case his guilt is not satisfactorily shown, be acquitted.

§14. Every one shall be presumed to intend the natural and plainly probable consequences of his acts.

§15. A criminal prosecution for an offense shall not destroy the right of action by the party injured thereby, unless it be expressly so provided.

§16. Every fine and forfeiture of property imposed as a punishment for any offense, or for a violation or neglect of any duty, where no other appropriation is expressly made, shall accrue and be appropriated to the government.

NOTE TO CHAPTER 2.

§§8-16 are P. C. Ch. 2, unaltered.

Cases in Hawaiian Reports: *R. v. Ah Hai*, 7 Haw. 322; *R. v. Lau Chew*, 8 Haw. 376.

## CHAPTER 3.

## JURISDICTION.

§17. All persons, whether citizens of this Republic, or citizens or subjects of any foreign state, government or country, are, while within the limits of this Republic, subject to its laws, except so far as exception is made by the law of nations in respect to ambassadors or others.

§18. Where an act is done or a fact or effect takes place within this Republic, affecting the welfare of the Republic, or the personal safety, the property or rights of any of its inhabitants, being within this Republic, any person causing, procuring, machinating or promoting the same, or instigating another thereto, or aiding or assisting therein, is amenable to the laws of this Republic, whether he be at the time within or without its limits.

§19. Where the commission of an offense commenced without this Republic is consummated within it, the offender is subject to be prosecuted and punished therefor in this Republic.

§20. Nothing in this chapter contained shall be construed contrary to the law and usages of nations.

## NOTE TO CHAPTER 3.

§§17-20 are P. C. Ch. 3, unaltered.

## CHAPTER 4.

## CAPACITY AND RESPONSIBILITY.

§21. An infant, under seven years of age, shall be deemed incompetent to commit an offense.

§22. Between the ages of seven and fourteen years, competency to commit any alleged offense, and the fact that the accused acted with intelligence and understanding of the nature of the act, shall be determined by the evidence of the case without any general presumption for or against the same.

§23. Any person who, by reason of his idiocy or mental imbecility, is not competent to discern the nature and criminality of an act done by him, shall not be held criminally responsible for such act.

§24. Any person acting under mental derangement, rendering him incompetent to discern the nature and criminality of an act done by him, shall not be subject to punishment therefor: Provided, however, that if any such person, while capable of discerning the nature and criminality of any act, entertained the intent to do the same, and subsequently does it in pursuance and execution of such intent, he shall be held responsible therefor, though the same be done in such state of mental derangement; and so also if any person voluntarily or heedlessly induce the mental derangement by intoxication or otherwise.

§25. No person shall be held criminally responsible for any act, to the doing of which he is compelled by force which he cannot resist, or from which he cannot escape: provided, how-

ever, that no compulsion shall be presumed without evidence; and no one shall be able to justify himself against a charge of his doing an injury to another, by showing the threat or imminent danger of an equal or less injury to himself.

NOTE TO CHAPTER 4.

§§21-25 are P. C. Ch. 4, unaltered.

Cases in Hawaiian Reports: *Day v. Day*, 8 Haw. 720.

## CHAPTER 5.

## PRINCIPALS AND ACCESSORIES.

§26. All who take part in the commission of any offense, or being present, aid, incite, countenance or encourage others in the commission thereof, shall be deemed principals therein.

§27. Any person who not himself being present at the commission of an offense, abets another in the commission thereof, or procures, counsels, incites, commands or hires another to commit the same, which such other thereupon, in pursuance thereof, commits, is an accessory before the fact, to the commission of such offense.

§28. Every person who aids in the commission of an offense, or is accessory before the fact thereto, is guilty of such offense, and shall be subject to punishment therefor, in the same manner and to the same effect as if he had been present at the commission thereof and actually taken part therein.

## NOTE TO CHAPTER 5.

§§26-28 are P. C. Ch. 5, unaltered.

Accessories after the fact, see P. L. Ch. 45.

Cases in Hawaiian Reports: 7 Haw. 562; *Hang Fook v. Gov't*, 9 Haw. 594; *Gov't v. Oishi*, 9 Haw. 645.

## CHAPTER 6.

## TREASON.

§29. If any person owing allegiance to the Republic of Hawaii levies war against it, or adheres to its enemies, giving them aid and comfort within the Hawaiian Islands or elsewhere, he is guilty of treason.

§30. Every person guilty of treason shall suffer the punishment of death, or, at the discretion of the Court, shall be imprisoned at hard labor for any term not less than five years, and fined not less than five thousand dollars, which fine shall be levied on and collected out of any or all of his property, real and personal, of which he was the owner at the time of committing such treason, any sale or conveyance thereof to any person having knowledge of such treason to the contrary notwithstanding; and every person so convicted of treason shall, moreover, be incapable of holding any office under this Government.

§31. No person shall be convicted of treason except upon the evidence of two or more witnesses to the same overt act, or upon his confession in open Court.

§32. If any person owing allegiance to the Republic of Hawaii and having knowledge of the commission of treason against it, conceals the same and does not, as soon as may be, disclose and make known the same to some member of the Executive Council, or to some Judge of a Court of Record, or to the Marshal, or to some Sheriff or Deputy Sheriff, he is guilty of misprision of treason, and shall be punished by imprisonment at hard labor for not more than five years and by fine of not more than five thousand dollars.



§33. If two or more persons conspire to overthrow, put down, or destroy by force the Republic of Hawaii, or to levy war against it, or to oppose by force the authority thereof, or by force to prevent, hinder or delay the execution of any law thereof, or by force to seize, take, or possess any property thereof contrary to the authority thereof, each of them shall be punished by a fine of not less than five hundred dollars, and not more than five thousand dollars, or by imprisonment at hard labor for not less than six months nor more than six years, or by both such fine and imprisonment.

§34. If any person recruits soldiers or sailors within the Hawaiian Islands to engage in armed hostility against said Republic of Hawaii, or opens within the Hawaiian Islands a recruiting station for the enlistment of such soldiers or sailors to serve in any manner in armed hostility against the said Government, he shall be punished by a fine of not less than five hundred dollars and not more than five thousand dollars, and by imprisonment at hard labor for not less than six months nor more than six years.

§35. Every soldier or sailor enlisted or engaged within the Hawaiian Islands with intent to serve in armed hostility against the said Republic of Hawaii, shall be punished by a fine of one hundred dollars and by imprisonment at hard labor for not less than one year nor more than three years.

§36. Allegiance is the fidelity, obedience and support due the Government from those under its protection. An alien, whether his native country be at peace or at war with this Government, owes allegiance to this Government during his residence within its borders, and is capable of committing treason and misprision of treason.

#### NOTE TO CHAPTER 6.

§§29-36 are P. G. Act 3, repealing P. C. Ch. 6.  
Cases in Hawaiian Reports: R. v. Gibson, 6 Haw. 310; R. v. Ho Fon, 7 Haw. 758; Re Walker, 9 Haw. 171.

## CHAPTER 7.

## HOMICIDAL OFFENSES.

§37. Murder is the killing of any human being with malice aforethought, without authority, justification or extenuation by law, and is of two degrees, the first and second, which shall be found by the jury.

§38. When the act of killing another is proved, malice aforethought shall be presumed, and the burthen shall rest upon the party who committed the killing to show that it did not exist, or a legal justification or extenuation therefor.

§39. Murder committed with deliberate premeditated malice aforethought, or in the commission of or attempt to commit any crime punishable with death, or committed with extreme atrocity or cruelty is murder in the first degree.

§40. Murder not appearing to be in the first degree is murder in the second degree.

§41. Whoever is guilty of murder in the first degree shall suffer the punishment of death.

§42. Whoever is guilty of murder in the second degree shall be punished by imprisonment at hard labor for life or for a term of years not less than twenty, in the discretion of the Court.

§43. In every case of sentence to punishment by death, the Court may, in their discretion, order the body of the convict to

be dissected, and the Marshal in such case shall deliver the dead body to any surgeon who may wish to have the body for dissection.

§44. Whoever kills a human being without malice aforethought, and without authority, justification or extenuation by law, is guilty of the offense of manslaughter.

§45. Manslaughter is of three degrees, and the jury under an indictment for murder or manslaughter may return a verdict of manslaughter in either degree, or of assault and battery, as the facts proved will warrant.

§46. Whoever is guilty of manslaughter in the first degree shall be punished by imprisonment at hard labor, for a term of years not less than ten, nor more than twenty, in the discretion of the Court.

§47. Whoever is guilty of manslaughter in the second degree shall be punished by imprisonment at hard labor, not more than ten years or less than five years.

§48. Whoever is guilty of manslaughter in the third degree shall be punished by imprisonment at hard labor not more than five years, or by a fine not more than one thousand dollars, in the discretion of the Court.

§49. Whoever, under an indictment for murder, or manslaughter, shall be found guilty of assault and battery, as provided in Section 45, shall be punished by imprisonment at hard labor not more than two years, or by fine not exceeding five hundred dollars, in the discretion of the Court.

§50. No person shall be adjudged to have killed another unless death ensues within a year and a day from the injury inflicted.

## NOTE TO CHAPTER 7.

§§37-41 are S. L. 1890, Ch. 71. §42 is S. L. 1892, Ch. 29.  
§§43-50 are P. C. Ch. 7 §§4-11.

Cases in Hawaiian Reports: R. v. Tin Ah Chin, 3 Haw. 90; R. v. Keanu, 5 Haw. 173; R. v. Bridges, 5 Haw. 467; R. v. Ahop, 7 Haw. 556; R. v. Wo Sow, 7 Haw. 734; R. v. Akana, 7 Haw. 549; R. v. Lau Kin Chew, 8 Haw. 370; Gov't v. Hering, 9 Haw. 184; Gov't v. Caecires, 9 Haw. 522.

## CHAPTER 8.

## DUELLING.

§51. Whoever shall kill another in a duel, fought in pursuance of an appointment with, or with the assent of the party killed, shall be adjudged guilty of manslaughter in the first degree, and suffer the punishment prescribed for that offense by the laws of this Republic.

§52. Any person who shall engage in a duel, with any deadly weapon, although no homicide shall ensue; or shall challenge another to fight such duel, or shall send or deliver any written or verbal message purporting or intended to be such challenge, although no duel shall ensue, shall be punished by a fine not exceeding one thousand dollars; and shall be incapable of holding any office or place of honor, profit or trust, under the constitution or laws of this Republic.

§53. Any person who shall accept any such challenge, or who shall knowingly carry or deliver any such challenge or message, whether a duel ensue or not; and any person who shall be present at the fighting of a duel that is fought with deadly weapons, as an aid, second or surgeon; or who shall advise, encourage or promote such duel, shall be punished by a fine not exceeding five hundred dollars, and incapacitated as mentioned in the preceding section for the term of ten years after the conviction of such offense.

§54. Any person who shall post another, or, in writing or print, use any reproachful or contemptuous language, to or concerning another, for not fighting a duel, or for not sending or

E

accepting a challenge, shall be punished by a fine not exceeding two hundred and fifty dollars.

NOTE TO CHAPTER 8.

§§51-54 are P. C. Ch. 8, unaltered.

## CHAPTER 9.

## ASSAULT AND BATTERY.

§55. An assault is a malicious attempt forcibly to do a corporal injury to another without authority or justification by law.

§56. A battery, or an assault and battery, is the malicious and forcible infliction of a corporal injury on another, without authority or justification by law.

§57. Whoever with malicious intent to maim or disfigure, or mutilate, shall cut out or maim the tongue, put out or destroy an eye, cut or tear off an ear, cut or slit or mutilate the nose or lip, or destroy or disable any limb, member or bodily organ of another, shall be punished by a fine not exceeding one thousand dollars, and imprisonment at hard labor not exceeding ten years.

§58. Whoever shall assault another, with intent to murder, or to maim or disfigure his person in any of the ways mentioned in the preceding section, shall be judged guilty of assault in the first degree, and shall be punished by a fine not exceeding one thousand dollars, and imprisonment not more than five years.

§59. Whoever being armed with a dangerous weapon shall assault another, with intent to commit burglary, robbery, manslaughter or murder, or other crime of such character, shall be punished by a fine not exceeding one thousand dollars, and imprisonment at hard labor not more than ten years.

§60. Whoever not being armed with a dangerous weapon, shall assault another with force and violence with intent to com-

mit burglary, robbery or theft, shall be punished by a fine not to exceed five hundred dollars, and imprisonment at hard labor not to exceed five years.

§61. Whoever shall commit an assault or an assault and battery on any public officer, civil or judicial, with intent to resist, prevent, hinder or obstruct him in the discharge or execution of his duty as such shall be punished by a fine not exceeding one thousand dollars or by imprisonment at hard labor not more than two years.

§62. Whoever shall commit an assault or an assault and battery on another with a knife, sword-cane, or any other weapon obviously and imminently dangerous to life, shall be punished by a fine not exceeding one thousand dollars, or by imprisonment at hard labor not more than two years.

§63. Whoever inflicts a slight corporal injury upon another, as by striking him with his fist, spitting in his face, inciting and causing a dog to bite him, or any injury of a like gravity, however slight, is guilty of an assault and battery, and shall be punished by a fine of not more than one hundred dollars, or by imprisonment at hard labor not more than six months, in the discretion of the Court.

§64. If any person assault, strike, wound, imprison, or in any other manner infract the law of nations, by offering violence to the person of a public minister, such person so offending, on conviction, shall be imprisoned not exceeding five years and fined at the discretion of the Court; and, if an officer of this Government, shall be liable to removal from office.

#### FOOT BINDING.

§65. The term "Foot Binding" as in this Act [§§65, 66, 67], used, shall be held to mean the compression, mutilation, injury or deformity caused to the feet of young girls; also the



means used to so compress, mutilate, injure or deform such feet, as well as any attempt to do the same.

§66. Foot binding is hereby forbidden and any person who binds or attempts to bind the feet as covered or intended to be covered by Section 65, or who shall authorize, or permit foot binding, such person being a free agent, or in any manner be a party or privy thereto or shall in any wise countenance the same, shall be liable, on conviction before any District Magistrate, to pay a fine of not less than twenty-five nor more than five hundred dollars, or to be imprisoned at hard labor not less than ten days or more than two years, or both, at the discretion of such Magistrate; or such person or persons may in place of such punishment leave the Hawaiian Islands at a time to be stated by such Magistrate, and a return within five years shall be deemed to be a revival of the sentence suspended by such deportation.

§67. The terms hereof shall apply to all cases of foot binding existing at the time this Act shall go into effect, provided the same are not immediately discontinued, and every continuation of such foot binding shall constitute a new offense. Nothing herein contained shall be held to relieve any person who has assisted or been privy to any foot binding from all of the pains and penalties of the laws relative to assault and battery, maiming or any other appropriate law.

§68. Every person who without authority or justification by law shall injure, distort or deform the feet of any female child under the age of eighteen years, shall be punished by a fine not exceeding five hundred dollars, or by imprisonment at hard labor not exceeding two years.

§69. No person shall be disqualified from testifying concerning any offense committed under this Act [§§68-69] on the ground that his testimony might criminate himself; but he shall not be prosecuted for any matter in respect of which he shall have testified.

## NOTE TO CHAPTER 9.

§§55-60 are P. C. Ch. 9 §§1-6. §61 is S. L. 1896, Act 34. §62 is S. L. 1896, Act 37. §63 is S. L. 1874, Ch. 15, C. L. p. 559. §64 is P. C. Ch. 9 §10. §§65-67 are S. L. 1895, Act 9. §§68-69 are S. L. 1896, Act 44.

Cases in Hawaiian Reports: *R. v. Howard*, 1 Haw. 40; *Irwin v. Porter*, 1 Haw. 93; *Coffin v. Spencer*, 2 Haw. 23; *Burrmeister v. Leyer*, 2 Haw. 255; *R. v. Young Qual*, 8 Haw. 282; *R. v. Ah Lum*, 8 Haw. 377; *Re Titcomb*, 9 Haw. 131; *Gov't v. Gallagher*, 9 Haw. 588; *Gov't v. Pahia*, 9 Haw. 604; *R. v. Li Shai*, 10 Haw. 262.

## CHAPTER 10.

## KIDNAPPING—UNLAWFUL IMPRISONMENT AND CHILD STEALING.

§70. Whoever kidnap, that is, forcibly or fraudulently and deceitfully, and without authority by law, imprisons, seizes, detains or inveigles away any person, with intent to cause such person to be secreted within this Republic against his will, or sent out of this Republic against his will, or sold or held as a slave, shall be punished by a fine not exceeding one thousand dollars, and be imprisoned at hard labor not more than two years.

§71. Whoever maliciously, without authority by law, imprisons another, or causes any one to be imprisoned, such imprisonment not appearing to be kidnapping, shall be punished by imprisonment at hard labor not exceeding one year, or by a fine not exceeding two hundred dollars.

§72. In the trial of any person for kidnapping or unlawful imprisonment, any alleged assent of the person charged to have been kidnapped or unlawfully imprisoned, shall be presumed to have been obtained by fraud or extorted by duress or threats, and shall, unless such presumption shall be rebutted by satisfactory proof to the contrary thereof, be null and of no avail in defense against the charge of such offense.

§73. Whoever is guilty of child-stealing, that is, maliciously by fraud, force or deception, conveying, leading, inveigling, taking, decoying or enticing away, or detaining or concealing any child under the age of eighteen years, with intent to deprive its parent or guardian, or any person having lawful charge of it,

of the custody and control of such child, or with intent to steal any article upon or about the person of such child, shall be punished by imprisonment at hard labor not more than two years, or by fine not exceeding five hundred dollars, or both, in the discretion of the Court.

§74. Whoever receives or harbors any such child, knowing the same to be stolen, with the intent specified in the preceding section, shall be subject to like punishment as for child-stealing.

§75. The two preceding sections are not applicable to the case where one obtains, detains, or receives a child from motives of humanity, to protect it from cruelty, or save it from suffering, or in good faith as being the legal parent, guardian or master, and entitled by law to the custody of any child, and for the purpose of asserting and vindicating such right, or as being the reputed father of such child, the same being illegitimate; but the right to the custody of the child, shall nevertheless, in either such case, be subject to be determined by the Courts or Judges upon the institution of suitable legal proceedings between the parties.

#### NOTE TO CHAPTER 10.

§§70-75 are P. C. Ch. 10, unaltered.

Cases in Hawaiian Reports: *Alau v. Everett*, 7 Haw. 82; *Congdon v. Ackerman*, 7 Haw. 569.

## CHAPTER 11.

## RAPE—SEDUCTION—ABDUCTION.

§76. Whoever commits a rape, that is, ravishes or has carnal intercourse with any female, by force and against her will, shall be punished by a fine not exceeding one thousand dollars, and imprisonment at hard labor for life or any number of years.

§77. Whoever ravishes or carnally abuses and knows any female child under the age of ten years, shall suffer the punishment of death, or imprisonment for life at hard labor, in the discretion of the Court.

§78. Whoever maliciously assaults any female with the intent to commit the crime of rape, or maliciously assaults any female child under the age of ten years, shall be punished by fine not exceeding one thousand dollars, and imprisonment at hard labor for not more than five years.

§79. Whoever commits the offense of abduction, that is, by force or deception takes or entices away or detains any female, with intent to marry or to carnally defile her, or cause her to be married or carnally defiled, without her consent given previously to her being so taken or enticed away or detained, shall be punished by a fine not to exceed five hundred dollars, and imprisonment at hard labor not more than three years.

§80. If the female so abducted be a child under ten years of age, such abduction shall be conclusively presumed to be by force, and without her consent and against her will.

§81. Whoever by conspiracy or by willful falsehood or deceit, or under promise of marriage, seduces, causes or procures any unmarried female to commit fornication, shall be punished by a fine not exceeding one thousand dollars, or by imprisonment at hard labor not more than two years. Provided however, that in case the parties to such fornication subsequently legally intermarry together the above penalty shall not thereupon be inflicted.

§82. The female upon whom rape is alleged to have been committed, or who is alleged to have been abducted or seduced, is a competent witness in a prosecution for such rape, abduction or seduction; but no person shall be convicted of rape, seduction or abduction, upon the mere testimony of such female uncorroborated by other evidence direct or circumstantial.

NOTE TO CHAPTER 11.

§§76-80 are P. C. Ch. 11, §1-5. §81 is S. L. 1888, Ch. 32. §82 is P. C. Ch. 11, §7.

Cases in Hawaiian Reports: Woodward v. Rep., 10 Haw. 416; R. v. Ah Wong, 10 Haw. 524; Re Hoopai, 10 Haw. 610.

## CHAPTER. 12.

## CAUSING ABORTION—CONCEALING THE DEATH OF AN INFANT.

The causing of abortions has from ancient times been a great sin in this land, therefore it is hereby enacted:

§83. Whoever maliciously, without lawful justification, administers, or causes or procures to be administered any poison or noxious thing to a woman when with child, in order to produce her miscarriage, or maliciously uses any instrument or other means with like intent, shall, if such woman be then quick with child, be punished by a fine not exceeding one thousand dollars and imprisonment at hard labor not more than five years. And if she be then not quick with child, shall be punished by a fine not exceeding five hundred dollars, and imprisonment at hard labor not more than two years.

§84. Where means of causing abortion are used for the purpose of saving the life of the woman, the surgeon or other person using such means is lawfully justified.

§85. If any woman conceals the death of any issue of her body, whether born alive or not, which, if born alive, would have been a bastard, so that it may not be known, whether such issue was born alive or not, or whether it was murdered, she shall be punished by fine not exceeding one hundred dollars, and imprisonment at hard labor not more than two years.

## NOTE TO CHAPTER 12.

§§83-85 are P. C. Ch. 12, unaltered.

## CHAPTER 13.

POLYGAMY—ADULTERY—FORNICATION—INCEST—SODOMY—PRO-  
CURING.

§86. Every married person who marries another husband or wife within this Republic, or having married another husband or wife out of this Republic, cohabits with such other husband or wife within this Republic, is guilty of polygamy and shall be punished by a fine not exceeding five hundred dollars, and imprisonment at hard labor not exceeding two years.

§87. A married person within the meaning of this chapter is one having a husband or wife living.

§88. A person whose husband or wife has been continually remaining beyond sea, or having voluntarily withdrawn himself or herself, has remained absent for the space of four years, and not been known by him or her to be living, shall not be considered a married person within the meaning of this law; neither shall a person who has been legally divorced from the bond of matrimony, be subject thereto, in case his or her crime or misconduct was not the occasion of the divorce.

§89. Sexual intercourse between a man, married or unmarried, and a married woman not his wife, is adultery by each; and between a married man and an unmarried woman, is adultery by each.

§90. Every man who commits adultery shall be punished by a fine not exceeding one hundred nor less than thirty dollars,



or by imprisonment at hard labor not more than twelve nor less than three months, or by both fine and imprisonment within the aforementioned limits, in the discretion of the Court; and every woman who commits adultery shall be punished by a fine not exceeding thirty nor less than ten dollars, or imprisonment at hard labor not more than four nor less than two months, in the discretion of the Court.

§91. Fornication is sexual intercourse between an unmarried man and an unmarried woman. Whoever is guilty of the same shall be punished by a fine not exceeding fifty nor less than fifteen dollars, or by imprisonment at hard labor not more than three months nor less than one month, in the discretion of the Court. But if they shall lawfully marry, with the consent of their parents, then the above penalty shall not be imposed.

§92. Illicit cohabitation shall hereafter be punished as adultery.

§93. Any man or woman who is guilty of lewd conversation, lascivious conduct, or libidinous solicitations, shall be punished by a fine not less than two nor more than ten dollars, or by imprisonment at hard labor not exceeding ten days.

§94. Whoever shall be convicted before any District Magistrate of the Republic, of having sexual or carnal intercourse with any female of this Republic, under the age of fourteen years, shall be imprisoned at hard labor for any term, not less than three nor more than eighteen months, in the discretion of the Court.

§95. Persons within the degrees of consanguinity or affinity, within which marriage is prohibited, who intermarry with each other, or commit an act of sexual intercourse with each other, are guilty of incest, and shall be punished by fine not exceeding five hundred dollars, or by imprisonment at hard labor for not more than ten years.

§96. Whoever commits sodomy, that is, the crime against nature, either with mankind or any beast, shall be punished by a fine not exceeding one thousand dollars, and by imprisonment at hard labor not more than twenty years.

§97. No woman shall be charged with or convicted of the offense of adultery or fornication because she is found pregnant, or has given birth to a child.

§98. If any persons, after being divorced for any cause whatever, shall cohabit as husband and wife, they shall be liable to all the penalties provided by the laws against adultery.

§99. Whenever, in any case of criminal conversation or seduction, an action at law for the recovery of damages shall be instituted by any party entitled to maintain such action, then, and in that case, the woman who may have been the subject of such criminal conversation or seduction, shall not be liable to be prosecuted criminally for adultery or fornication, under the provisions of this chapter.

§100. Any person who shall in any manner solicit, or be privy to, or aid or abet in the soliciting of another to unlawful sexual intercourse; or to attend at any place where immoral dances, plays, or any indecent entertainment is being given; or to go to or attend at any place where a prostitute resides or carries on her business, or where prostitutes are generally known to congregate and assemble; or shall exhibit any writing, sign, character or in any other manner indicate and advertise the business or calling of a prostitute; or do any other thing tending to allure and tempt another to go to or attend at any of the places indicated in Sections 100 and 101; or shall lead, conduct or drive any person to such place, or act as guide or conductor for that purpose, or for any of the purposes herein specified; or shall procure any prostitute for any person, whether such prostitute shall be actually taken to or conducted to such person or not;

shall be deemed guilty of a misdemeanor, and on conviction thereof shall be fined not more than five hundred dollars, or be imprisoned at hard labor not over one year, and, if such person be a licensed driver, such license shall also be forfeited, and he shall not thereafter be licensed to drive for two years.

§101. In cases arising under Section 100, the Magistrate or Judge hearing the same may receive as evidence the fact that the person charged has no visible lawful means or insufficient lawful means of support, and is commonly about or in houses of prostitution, or in other places mentioned in Section 100 hereof; or that in connection with proof of committing any act forbidden hereby, such person is known to the police to be idle, vicious, and one who requires police surveillance.

NOTE TO CHAPTER 13.

§§86-99 are P. C. Ch. 13 §§1-14. §§100-101 are S. L. 1896, Act 18. Cases in Hawaiian Reports: *R. v. Kalailoa*, 4 Haw. 39; *Pahoa v. Haupu*, 4 Haw. 158; *Est. Gordon*, 6 Haw. 290; *Gov't v. Kamakauila*, 9 Haw. 607; *R. v. Kuhia*, 10 Haw. 440; *R. v. Waipa*, 10 Haw. 442; *R. v. Parsons*, 10 Haw. 601.

## CHAPTER 14.

## BURGLARY.

§102. Whoever by night or day breaks and enters the dwelling-house, room, building, store, mill, warehouse, outhouse or vessel of another, with intent to commit a felony therein, is guilty of burglary.

§103. Breaking is actual or constructive.

Actual breaking includes opening a door or window that is closed; constructive breaking is where entry is obtained by violence or threats of violence to the inmates or their property, or by fraud or by the aid of an accomplice.

§104. It is essential to burglary that there should be an entry which may be made by introducing the hand, foot, finger, or any part of the body into the house or any apartment thereof entered; or by discharging or throwing any missile, or introducing any instrument or any part thereof into the same; provided, that the missile or instrument be used as a means of committing or attempting to commit a felony, and not merely as a means of breaking.

§105. Burglary is of two degrees, first and second.

Burglary committed in the night time, or committed by one armed with a deadly weapon, or committed when any person having a right to be there is within the place burglarized, is burglary in the first degree; all other burglary is in the second degree.

§106. Whoever is convicted of burglary in the first degree shall be punished by imprisonment at hard labor for life or any number of years. Whoever is convicted of burglary in the second degree shall be punished by imprisonment at hard labor not more than twenty years.

## NOTE TO CHAPTER 14.

§§102-106 are S. L. 1896, Act 38, repealing P. C. Ch. 14.

Cases in Hawaiian Reports: R. v. Hulu, 3 Haw. 82; R. v. Asina, 3 Haw. 474; Re Rhodus, 6 Haw. 345; R. v. Ah Cheon, 10 Haw. 469. R. v. Naone, 2 Haw. 746; R. v. Asina, 4 Haw. 474.

## CHAPTER 15.

## ROBBERY.

§107. Robbery is the stealing of a thing from the person of another or from his custody in his presence, by force or putting him in fear.

§108. In order to constitute robbery, the force must be used, or the fear excited or taken advantage of, to prevent or overcome resistance, or to prevent or hinder the escape of the party robbed, or to prevent the conveying away, securing or guarding the subject of the larceny from being taken, or to induce the party robbed to surrender the same, or to prevent detection of the crime.

§109. Though the taking be by force, yet if it be not with intent to steal, it is not robbery.

§110. The taking of a thing from another by means of forcibly imprisoning him, or forcibly putting him under personal restraint or duress, until he shall surrender the same is robbery.

§111. In order to render the taking through fear, where no violence is used, a robbery, it is requisite that the ground of fear should be adequate, and not merely trivial and frivolous.

§112. An adequate cause of fear is such as would, under the same circumstances, cause fear in a person of ordinary firmness of like age, sex and state of health, and induce such a person to part with property, to avoid the apprehended injury or

danger; or such as the taker of the thing believes, or has reason to believe will cause, and such as does in fact cause, such degree of fear.

§113. Whether the robber obtains the thing stolen through the influence of fear excited by words, menacing gesture, the presenting a weapon, or other act causing fear, it will equally in either case be robbery.

§114. Robbery by one armed with a dangerous weapon with intent, if resisted, to kill, maim, wound or inflict other severe corporal injury upon the person robbed; or where, being so armed, the robber in committing the offense, wounds, or strikes or inflicts other severe injury upon the person robbed, or any other person, is robbery in the first degree; and all other robbery is such in the second degree.

§115. Any person committing a robbery, being armed with a dangerous weapon, shall be presumed to be so armed with the intent specified in the preceding section.

§116. Whoever commits robbery in the first degree, shall be punished by imprisonment at hard labor for life or any number of years, in the discretion of the Court.

§117. Whoever commits robbery in the second degree, shall be punished by imprisonment at hard labor not more than twenty years.

#### NOTE TO CHAPTER 15.

§§107-117 are P. C. Ch. 15, unaltered.

Cases in Hawaiian Reports: *Re Rhodus*, 6 Haw. 343; *Gov't v. Hapa*, 9 Haw. 622; *R. v. Ah Cheon*, 10 Haw. 469.

## CHAPTER 16.

## LARCENY.

§118. Larceny or theft is the feloniously taking any thing of marketable, saleable, assignable or available value, belonging to or being the property of another.

§119. It is enough if the thing taken is of any pecuniary value, or valuable or economical utility, though it be not of any value to sell.

§120. In order to be the subject of larceny, a thing must be moveable, or such that it can be removed.

§121. Any part of real estate that is moveable, or can be detached, severed, separated or removed from the real estate of which it is a part, may be the subject of larceny.

§122. In order to be the subject of larceny, a thing must be the subject of property and possession.

§123. Domestic animals of value are the subjects of larceny, though not at the time within the actual keeping or control of the owner, or of any one for him. For instance, estrays and cattle ranging the commons or mountains of the islands.

§124. Animals, whether those living in air, or aquatic or amphibious, of species not usually domesticated, are subjects of larceny when in the custody, possession and control of the owner, or of any one for him, and are distinguishable as being, or



known by the taker to be, so in the owner's possession, custody or control. For instance, fish in ponds, or particular creeks or portions of the sea, doves in a dove cote.

§125. Any writing of value may be the subject of larceny. For instance, a promissory note, bill of exchange or other bill, order, certificate, bond, book of accounts; a deed or any written or printed conveyance of land; any award of the Land Commission, or other evidence of title to real or personal property; any contract remaining in force; a receipt, discharge, writ or process; any commission conferring a right, privilege, claim or liability upon another; a record or journal of the acts or proceedings of any judicial Court, Court of impeachment, or of the Legislature, Privy Council or any public corporation; or any record of any public office.

§126. Where no one can be benefited by a writing, and no one has any interest in it or depending upon it, or can be subject to liability by its passing into other hands or being destroyed, it is not a subject of larceny.

§127. The value of a writing is not necessarily to be considered to be the amount expressed or imported by the writing itself, but should be determined by its importance, materiality and availability as affecting public or individual interests.

§128. In order to be the subject of larceny, a thing must be owned by, or be the property, general or special, of, or belonging to, some one. That is, some one must have a property, general or special, in the thing; or have and be entitled to the possession of the thing.

§129. Wrecked property, estrays and lost property, shall be deemed still in the constructive possession of the owner; and the taking of either of them, with felonious intent, is larceny. But the taking of derelict property is not larceny.

§130. It is not necessary, in respect to larceny, that it should appear whose property, other than the taker's, the thing is; it is enough that it appear that it is not the taker's, and that it does not appear to be derelict; and in case of doubt whether a thing is derelict, the presumption is that it is not so.

§131. Larceny cannot be committed by the husband from the wife of her property, or by the wife from the husband of his property.

§132. Larceny is of two degrees, first and second. Larceny of property of the value of more than one hundred dollars is in the first degree, and shall be punished by imprisonment at hard labor not more than ten years.

All other larceny is in the second degree, and shall be punished by imprisonment at hard labor not more than two years, or by fine not exceeding one thousand dollars.

§133. Whoever shall be convicted of three or more larcenies at the same session of any Court; or whoever, having been convicted of a larceny, shall be again convicted of a larceny committed after such former conviction, shall receive an additional punishment not exceeding that otherwise provided by law for the offense or offenses of which he is so convicted, by more than one half.

NOTE TO CHAPTER 16.

§§118-131 are P. C. Ch. 16 §§1-14. §132 is S. L. 1896, Act 25. §133 is P. C. Ch. 16 §16.

Cases in Hawaiian Reports: *Koa v. Kaahanui*, 6 Haw. 168; *R. v. McGiffin*, 7 Haw. 104; *R. v. Chop Tin*, 7 Haw. 383; *R. v. Mahelona*, 7 Haw. 392; *R. v. Haumea*, 8 Haw. 280; *Gov't v. Machado*, 9 Haw. 221; *Gov't v. Mura*, 9 Haw. 428; *R. v. Pahu*, 10 Haw. 74; *R. v. Kahoohanohano*, 10 Haw. 97; *R. v. Ah Ping*, 10 Haw. 459; *R. v. Ah Cheon*, 10 Haw. 469; *R. v. Naone*, 2 Haw. 746; *R. v. Asina*, 3 Haw. 474; *R. v. Ikeole*, 4 Haw. 413; *R. v. Ah Fong*, 4 Haw. 621.

## CHAPTER 17.

## VIOLATION OF POSTAL LAWS.

§134. Whoever shall open and read, or cause to be read, any sealed letter, belonging to another, without being authorized so to do, either by the writer of such letter or the person to whom it is addressed, or by law, shall be punished by fine not exceeding fifty dollars, or by imprisonment at hard labor not more than twenty days.

§135. If such letter be opened and read by inadvertance or by mistake, as for example, when the letter is addressed to another person of the same name as the one who opens it, such opening and reading is no offense.

§136. Whoever shall maliciously publish or circulate the whole or any part of a sealed letter opened as described in the first section of this chapter, without legal authority, and knowing the manner in which it was obtained, shall be punished by fine not exceeding one hundred dollars, or by imprisonment at hard labor not more than thirty days.

§137. If property of any assignable value be taken from such letter, it is larceny.

§138. Whoever shall take any letter, whether sealed or not, or any writing whatever, from the legal possession of another, without his consent, and shall maliciously publish the same, shall be punished by fine not exceeding one hundred dollars, or by imprisonment at hard labor not more than thirty days.

§139. Whoever shall take any letter, whether sealed or not, belonging to another, and detain, secrete, embezzle or destroy the same, shall be punished by fine not exceeding two hundred dollars, or by imprisonment at hard labor not more than sixty days.

§140. The above sections apply to persons other than those entrusted with the charge or carrying of mails, employed in any of the post office departments.

§141. If any postmaster, collector, clerk or other person, employed in any custom house or post office, or any mail carrier or other person having charge of any mail, shall unlawfully detain or open any letter, packet, bag, or mail of letters, with which he shall be entrusted, or which shall have come to his possession, and which is intended to be conveyed by post; or if any such person shall secrete, embezzle or destroy any letter or packet entrusted to such person as aforesaid and which shall not contain any bill, draft, note or other writing of value, he shall be punished by fine not exceeding three hundred dollars, or by imprisonment at hard labor not more than six months.

§142. If any person as aforesaid, shall secrete, embezzle, or destroy any letter, packet, bag or mail of letters with which he shall be entrusted, or which shall have come into his possession, and intended to be conveyed by post, containing any bill of exchange, draft, promissory note, contract, or other writing of value; or if such person shall steal or take away any such bill, draft, note, contract or other writing of value, out of any letter, packet, bag or mail of letters that shall come to his possession, shall be punished by imprisonment at hard labor not exceeding ten nor less than one year.

§143. If any mail carrier or other person having charge of any mail, shall quit and desert the same before such person delivers it into the post office to which it belongs, or into the hands

of some person authorized to receive the same, shall be punished by fine not exceeding five hundred dollars, and in default of the payment thereof, by imprisonment at hard labor not more than six months.

§144. Whoever shall rob any carrier of any mail of this Republic, or any other person entrusted therewith, shall be punished by imprisonment at hard labor not exceeding ten, nor less than five years.

§145. Whoever in effecting such robbery shall wound the person having the custody of such mail, or put his life in jeopardy by the use of any dangerous weapon, shall be punished by imprisonment at hard labor for life or any number of years, in the discretion of the Court.

§146. Whoever shall attempt to rob any mail of this Republic by assaulting any person having custody thereof, shooting at him, or threatening him with dangerous weapons, shall, though the robbery is not effected, be punished by imprisonment at hard labor not exceeding five nor less than two years.

§147. Whoever shall steal any mail, or steal from any mail, or any post office, any letter or packet, shall be punished by imprisonment at hard labor not exceeding five years, nor less than one year.

§148. One half of all pecuniary penalties incurred under any of the provisions of this chapter shall, if paid, go to the use of the person informing and prosecuting for the same.

§149. No ship or vessel arriving at any port of these islands where a post office is established, shall be permitted to report, make entry or break bulk until the master or commander shall have delivered to the postmaster at such port all letters directed

to any person or persons within this Republic, which under his care or within his power shall be brought into such ship or vessel, except such as are directed to the owner or consignee of the ship or vessel, and the postmaster to whom such letters shall be delivered shall pay to said master or commander as remuneration therefor, such a sum of money as by the rules and regulations of the Universal Postal Union may be necessary, and it shall be the duty of the Collector or other officer of the port empowered to receive entries of ships or vessels to require from every master or commander of such ship or vessel an oath or affirmation purporting that he has delivered all such letters except as aforesaid. And if any commander or master of any ship or vessel shall break bulk before he shall have complied with the requirements of this article, he shall on conviction thereof before any Court, forfeit for every such offense a sum not less than one hundred, nor more than five hundred dollars; and in default of payment his vessel shall be liable to seizure, condemnation and sale, in order to satisfy such penalty. The master or agent of any ship or vessel about to leave any port of this Republic for any foreign port shall give due written notice of the day and hour of the intended departure to the postmaster of such port, and shall make oath or affirmation of such notice before the Collector of the port before receiving clearance papers.

§150. No ship or vessel leaving any port of the Hawaiian Islands, where a post office is established, shall be permitted to carry any letters, newspapers, or other mailable matter, outside the mail, unless the Hawaiian postage on the same shall have been previously paid. And if any commander or master of any ship or vessel shall not comply with the requirements of this section, for every such offense he shall, on conviction thereof, forfeit a sum not less than one hundred, nor exceeding five hundred dollars; and such ship or vessel shall be liable to seizure, condemnation and sale, in order to enforce the payment of such forfeiture.

§151. No inter-island letters shall be transmitted by mail unless previously stamped, and it shall be unlawful for any individual to convey any letter or letters from port to port; provided, however, that in case of a deficiency of stamps, the postmaster, at the place of mailing, may receive an equivalent in money, and mark such letter "paid," and subscribe his name thereto, and such letters shall be transmitted in due course of mail. Any person conveying any letter or letters in contravention of this section shall be liable to a fine of not less than five nor more than fifty dollars, to be recovered before any District Magistrate, at the suit of the Postmaster-General or any Postal Agent throughout the Republic; one-half of which fine shall be paid to any person informing of the violation of this law.

§152. Each coasting vessel shall have placed, in some conspicuous and convenient place, a locked post office box or bag, legibly lettered, and the master of every such vessel shall act as a route agent for the post office; and all letters properly stamped and placed in such box or bag shall be delivered by the route agent to the nearest postmaster, according to its direction, but the route agent before delivering shall deface or obliterate the stamp or stamps on any letters so mailed, on pain of a fine of not less than ten or more than fifty dollars, to be recovered before any District Magistrate; and on a repetition of such offense the license of the vessel commanded by such postal agent shall be liable to be revoked by the Collector-General of Customs, after conviction before any District Magistrate at the complaints of any postal agents.

§153. If any person or persons shall forge or counterfeit any stamp of the Post Office Department, issued by authority of law, or if they shall obliterate the mark of any stamp for the purpose of using the same for a second time, they shall be adjudged guilty of felony, and on conviction thereof, be fined a sum not exceeding five hundred dollars, or imprisoned at hard

labor for a term not more than one year, in the discretion of the Court.

§154. If any person or persons shall rip, cut, untie, unlock, or in any way open any mail bag, valise or portmanteau, containing letters or mailable matter of the Republic of Hawaii, without due authority of the Postmaster-General, said person or persons shall, upon conviction thereof, for every such offense, pay a sum of not less than fifty dollars, or more than five hundred dollars; or be imprisoned at hard labor for a period not exceeding two years, or both, in the discretion of the Court.

§155. The fabrication, sale, distribution or utterance of any imitation of any foreign postage, revenue, or telegraph stamps, post cards, stamped envelopes, or other official impressions of fixed value, obtained by any process whatever, is prohibited.

§156. Any infraction of the preceding section shall be punished, upon conviction before any District Magistrate, by imprisonment at hard labor for not more than six months, or by fine not exceeding five hundred dollars (\$500), or both, and the dies, material or other apparatus used shall be confiscated.

#### NOTE TO CHAPTER 17.

§§134-148 are P. C. Ch. 17 §§1-15. §149 is S. L. 1882, Ch. 39, C. L. p. 96. §§150-154 are P. C. Ch. 17 §§17-21. §§155-156 are S. L. 1890, Ch. 14.



## CHAPTER 18.

## EMBEZZLEMENT.

The protection of property, and all the business intercourse of society is based upon the trust which men repose in others; therefore the House of Nobles and Representatives do hereby enact:

§157. If any person who is entrusted with, or has the possession, control, custody or keeping of a thing of value of another, by the consent or authority, direct or indirect, of such other, without the consent and against the will of the owner, fraudulently converts or disposes of the same, or attempts so to convert or dispose of the same, to his own use and benefit, or to the use and benefit of another than the owner or person entitled thereto, he is guilty of the embezzlement of such thing.

§158. Whoever, being a minister, collector, cashier, clerk or other person employed in the Government Treasury, or any other branch of the Department of Finance, or in any other department of the Government, is guilty of embezzlement of any money, note, or other effects or property belonging to the Government, shall be punished by imprisonment at hard labor for life or any number of years, or by fine not exceeding five times the value of the thing or property embezzled.

§159. Whoever is guilty of embezzlement, other than is specified in the preceding section, if it be to the amount of one hundred dollars or more, shall be punished by imprisonment at hard labor not more than ten years, or by fine not exceeding

five times the value of the property or thing embezzled; if it be to the amount of twenty dollars and less than one hundred, he shall be punished by imprisonment at hard labor not more than five years, or by fine not exceeding three hundred dollars; and if it be to an amount less than twenty dollars, he shall be punished by imprisonment at hard labor not more than one year, or by fine not exceeding fifty dollars.

§160. Where the person convicted of embezzlement is under sixteen years of age, the Court shall have the power to mitigate the punishment specified for the offense of which he is guilty, always having due regard to the welfare of the community of which the offender is a member.

#### NOTE TO CHAPTER 18.

§§157-160 are P. C. Ch. 18, unaltered.

Cases in Hawaiian Reports: *Rex v. Swinton*, 1 Haw. 55; *King v. Chock Hoon*, 5 Haw. 372; *Extradition of McCarthy*, 5 Haw. 573; *Govt. v. Len Tai*, 9 Haw. 73; *R. v. Ah Cheon*, 10 Haw. 469; *P. G. v. Mossman*, 9 Haw. 360.

## CHAPTER 19.

## EXTORTION.

§161. Extortion is the wresting anything of value from another by duress, menaces, or by an undue exercise of power.

§162. Whoever commits extortion by charging or threatening to charge another or any person in whom he is specially interested by reason of marriage, relationship, guardianship, friendship, or other tie, with any crime, is, in case such crime be capital, or subject to punishment by imprisonment for five years or more, guilty of extortion in the first degree; in case it be an offense of a lower grade, he is guilty of extortion in the second degree.

§163. In prosecutions under the preceding section, no evidence of the guilt or innocence of the party against whom the extortion is practiced, is admissible.

§164. Whoever commits extortion by threatening to charge or impute any secret deformity or disease to him or any person in whom he is specially interested as aforesaid, is guilty of extortion in the second degree.

§165. Whoever commits extortion by threatening, directly or indirectly, by words, signs, or acts, to burn, destroy, waste, deface, or injure his property, real or personal, or that of another in whom he is specially interested, or to do him or such other any malicious injury, is guilty of extortion in the second degree.

§166. Whoever by violence, duress, or other threats, as aforesaid, compels or induces another to sign or execute, or to confess or acknowledge the signature or execution of any deed, note, or other writing, which, if voluntarily made, would affect the rights and interests of the maker and signor thereof, with intent to avail himself of such writing, or enable any other person to avail himself thereof, as being valid, shall be subject to the punishment hereinafter prescribed for extortion in the second degree.

§167. Whoever, being a public officer of any description, civil, judicial, military, or other, by color of his office, willfully and corruptly extorts from another for his own benefit and profit, any thing of value, knowing that he has not any legal authority or right to exact the same, is guilty of extortion in the second degree.

§168. Whoever is guilty of extortion in the first degree, shall be punished by imprisonment at hard labor not more than five years, or by fine not exceeding one thousand dollars.

§169. Whoever is guilty of extortion in the second degree, shall be punished by imprisonment at hard labor not more than two years, or by fine not exceeding one thousand dollars.

NOTE TO CHAPTER 19.

§§161-169 are P. C. Ch. 19, unaltered.

Cases in Hawaiian Reports: R. v. Thornton, 9 Haw. 45.

## CHAPTER 20.

## RECEIVING STOLEN GOODS.

§170. The receiving of stolen goods is, in contract or otherwise, the fraudulently taking, accepting of, detaining, keeping, concealing, or disposing of, the goods of another, stolen, embezzled, or illegally extorted by any one, or aiding therein, whether the same was so stolen, embezzled, or so extorted within or without this Republic.

§171. It is not requisite in order to constitute the offense of receiving stolen goods, that the receiver should intend any profit or benefit to himself.

§172. Whoever without fraud, obtains possession or control of goods, knowing them to be stolen, and afterwards fraudulently detains, keeps, conceals or disposes of the same, or aids therein, with the intent that the same shall not be restored to the owner, but that the owner shall be deprived and despoiled thereof, or of the benefit thereof, is guilty of the offense of receiving stolen goods.

§173. Receiving any specific part of the same thing that is stolen, is receiving stolen goods; as for example, a part of the carcass of a stolen animal, or a piece of a machine, broken in pieces after being stolen.

§174. Whoever is guilty of receiving stolen goods to the amount of one hundred dollars or more, shall be punished by imprisonment at hard labor not more than five years, and by a

G

fine not exceeding five hundred dollars; and if it be to an amount less than one hundred dollars, he shall be punished by imprisonment at hard labor not more than two years, and by fine not exceeding one hundred dollars; provided, however, if this is the first offense, and the convict shall make satisfaction to the party injured to the full value of the property, he shall not be subject to punishment by imprisonment for such offense.

§175. If any person is convicted of receiving stolen goods, after having been previously convicted of such offense, or is convicted at the same term of the Court of three or more distinct acts of receiving stolen goods, he is a common receiver of stolen goods, and shall be punished by imprisonment at hard labor not more than ten years, and by fine not exceeding one thousand dollars.

§176. In any prosecution for receiving stolen goods, it shall not be necessary to aver nor on the trial to prove, that the person who stole the goods has been convicted.

NOTE TO CHAPTER 20.

§§170-176 are P. C. Ch. 20, unaltered.

Cases in Hawaiian Reports: *R. v. Ah Cheon*, 10 Haw. 469.

## CHAPTER 21.

## GROSS CHEATS.

§177. Whoever shall designedly, by any false pretense, and with intent to defraud, obtain from another any money, goods, or other thing of value, is guilty of a gross cheat; for example, the obtaining of money or other property from another under false pretense of being sent for the same by a friend or acquaintance of his; or obtaining money by means of a letter fabricated in the name of another.

§178. Whoever shall, by any false pretense, and with intent to defraud, obtain the signature of any person to any written instrument, the false making whereof would be punishable as forgery, is guilty of a gross cheat; for example, by falsely reading a promissory note or other pecuniary obligation, with intent to procure the same to be signed by a person unable to read.

§179. Whoever, in the sale or purchase of any merchandise or other property, shall use any false weight or measure; or cheat another by the fraudulent use of any legal weight or measure; as for example, by dexterously sliding a yard stick, or by putting some other thing into a measure partly to fill the same, even though the vendee and vendor be present, is guilty of a gross cheat.

§180. Whoever shall knowingly sell any kind of diseased, corrupted, or unwholesome provisions for the food of man, without making the same fully known to the buyer, is guilty of a gross cheat.

§181. Whoever shall knowingly compound, prepare, or adulterate any substance intended for food, drink, or medicine for man, with any ingredient or matter so as to render such food, drink, or medicine injurious to health; or knowingly procure such substance to be compounded, prepared, or adulterated, is guilty of a gross cheat.

§182. Whoever is convicted of a gross cheat shall be punished by imprisonment at hard labor not more than two years, or by fine not exceeding one thousand dollars.

§183. No person shall be exempted from criminal prosecution for gross cheating, by reason of the party cheated having a remedy against him by civil action.

#### FALSE PERSONATION.

§184. Every person who shall falsely represent or personate another, and in such assumed character shall cause a license for marriage to be granted by falsely representing himself or herself to be the parent or guardian of a minor, or shall perform the marriage ceremony by falsely representing himself to be authorized by law to perform that ceremony, or shall falsely personate another before any public officer in doing any act required or authorized by law, or shall become bail or surety for any party, in any proceeding, civil or criminal, before any Court or officer authorized to take such bail or surety; or confess any judgment, or acknowledge the execution of any conveyance of real estate, or of any other instrument which by law may be recorded; or do any other act in the course of any suit, proceeding or prosecution, whereby the person so represented or personated may be liable in any event of any debt, damages, costs or sums of money, or his rights or interests may in any matter be affected, shall upon conviction, be punished by imprisonment at hard labor, not exceeding five years, and by fine not exceeding one thousand dollars.



§185. Any person not a duly commissioned police officer, or member of the Police Organization known as the "Citizens' Guard," who shall wear or display a Policeman's badge or a Citizens' Guard badge, or wear a Policeman's uniform or the uniform of a member of the Citizens' Guard, with intent to deceive, shall be deemed guilty of a misdemeanor, and upon conviction be punished by a fine not to exceed fifty dollars.

§186. Any person not a duly commissioned police officer, or member of the Police Organization known as the "Citizens' Guard," who shall wear or display a badge or uniform resembling the badges or uniforms authorized by the Marshal to be worn by police officers and members of the Citizens' Guard with intent to deceive, shall be deemed guilty of a misdemeanor, and be punished by a fine not to exceed one hundred dollars.

## OLEOMARGARINE.

§187. Whoever knowingly sells to any person or offers for sale any butter manufactured from or by the use of "oleomargarine," so called, unless the package containing the same shall be distinctly marked "oleomargarine," shall be deemed guilty of a misdemeanor and punished by a fine of not more than two hundred dollars or imprisoned not more than twenty days or both.

§188. Whoever knowingly imports, manufactures, sells or offers for sale any substance purporting to be, or having the semblance of butter, which substance is not wholly made from pure cream or pure milk, unless the same is imported or manufactured under its true and appropriate name, and each package, roll or parcel thereof, and each vessel containing one or more packages of the same, has distinctly and durably painted, stamped or marked thereon the true and appropriate name of such substance, in ordinary bold faced capital letters, or whoever sells any such substance to consumers without delivering with

each package, roll or parcel so sold, a label on which is plainly and legibly printed the true and appropriate name of such substance, shall be guilty of a misdemeanor and punished by imprisonment of not more than sixty days or a fine not to exceed two hundred and fifty dollars or both; but nothing contained in this Section shall be construed to prevent the use of harmless coloring matter in the manufacture of butter.

NOTE TO CHAPTER 21.

§§177-181 are P. C. Ch. 21 §§1-5. §182 is S. L. 1896, Act 32, repealing P. C. Ch. 21 §§6-8. §183 is P. C. Ch. 21 §9. §184 is S. L. 1870, Ch. 36, C. L. p. 543. §§185-186 are L. R. Act 25. §§187-188 are S. L. 1892, Ch. 84.

False personation of an officer of the government, see P. L. §250.

## CHAPTER 22.

## ARSON.

§189. Arson is a crime of willfully and maliciously burning the dwelling house of another.

§190. Whoever willfully and maliciously burns in the night time, the dwelling house of another, in which there is at the time of such burning any occupant or inmate, is guilty of arson in the first degree, and shall be punished by death, or imprisonment at hard labor for life, in the discretion of the Court.

§191. Whoever willfully and maliciously burns in the day time or night time the dwelling house of another is guilty of arson in the second degree, and shall be punished by imprisonment at hard labor for life, or any number of years in the discretion of the Court.

§192. A malicious burning, is the offense of burning a thing, whether that of the offender or of another person, with intent to injure another, or without any legal or justifiable motive or object, and with a reckless disregard of the life, or personal safety, property, or legal rights, or interests of another, where the same are obviously, immediately, and imminently endangered by the burning.

§193. Where the thing burnt or attempted to be burnt, is that of another than the offender, malice shall be presumed; where it is that of the offender, the malice must be shown.

§194. Whoever willfully and maliciously, or fraudulently burns in the night, any building, vessel, or structure whatsoever, whether partly or wholly his own, or that of another, by the burning of which another might be injured, where the buildings, vessels or structures burnt, are, with their contents, of the value of one thousand dollars or more, is guilty of malicious burning in the first degree, and shall be punished by imprisonment for life at hard labor, or any number of years, in the discretion of the Court.

§195. Where the burning mentioned in the preceding section is in the day, the offender is guilty of malicious burning in the second degree, and shall be punished by imprisonment at hard labor not more than ten years.

§196. Whoever willfully and maliciously, or fraudulently burns, either in the night or day, any building, vessel or structure whatsoever, whether partly or wholly his own or that of another, by the burning of which another might be injured, where the buildings, vessels, or structures burnt, are, with their contents, of the value of five hundred dollars or over, and less than one thousand, is guilty of malicious burning in the second degree, and shall be punished by imprisonment at hard labor not more than ten years.

Where such value is less than five hundred dollars, it is a malicious burning in the third degree, and the offender shall be punished by imprisonment at hard labor not more than five years, or by fine not exceeding five hundred dollars, in the discretion of the Court.

§197. Whoever willfully and maliciously burns any pile or parcel of wood, timber, or lumber, or any field, patch, stack, or parcel of grass, grain, cane, or other vegetable product, whether severed from the soil or not, or any standing trees, brush or underwood, or other standing product of the soil of another, is guilty of a malicious burning in the third degree, and shall

be punished by imprisonment at hard labor not more than five years, or by fine not exceeding five hundred dollars, in the discretion of the Court.

§198. It shall be sufficient to constitute a burning, within the meaning of the provisions of this chapter, if any part of the building, structure, or other thing burnt, is on fire, though no part thereof is absolutely consumed.

§199. The provisions of this chapter shall apply to a married woman, equally with any other person, though the property burnt or set fire to may belong partly or wholly to her husband.

NOTE TO CHAPTER 22.

§§189-190 are P. C. Ch. 22 §§1-2. §191 is S. L. 1882, Ch. 5, C. L. p. 658. §§192-199 are P. C. Ch. 22, §§4-11.

Cases in Hawaiian Reports: *King v. John Brown*, 3 Haw. 114; *R. v. Lau Chew*, 8 Haw. 370; *Rep. v. Saku*, 9 Haw. 548.

## CHAPTER 23.

## MALICIOUS INJURY.

§200. Whoever negligently or maliciously destroys or injures any real or personal property of another, or injures or disturbs another in any of his rights or privileges of person or property shall be deemed guilty of malicious injury and shall be punished by imprisonment at hard labor not more than two years, or by fine not exceeding one thousand dollars.

§201. An act done in the fair exercise, assertion or vindication in good faith of a supposed legal right, shall not be punishable as malicious injury; but the question of good faith is for the Magistrate or jury to determine.

§202. If any dog shall injure or destroy any sheep or cattle, goats, hogs, fowls, or other property belonging to any person other than the owner of such dog, the owner shall be liable in damages to the person injured, for the value of the property so injured or destroyed; and it shall be the duty of the owner to confine or destroy such dog, and if he neglect or refuse to do so, he shall, in the event of any further damage being done to the person or property of any person by such dog, in addition to paying the person injured for such damage, pay the costs of the trial, together with a fine of ten dollars, or in default of the payment of such fine, be imprisoned at hard labor for the term of thirty days, and it shall be lawful for any other person to destroy said dog.

## NOTE TO CHAPTER 23.

§§200-201 are S. L. 1896, Act 35, repealing P. C. Ch. 23 §§1-8. §202 is P. C. Ch. 23 §9.

Cases in Hawaiian Reports: R. v. Wansey, 8 Haw. 116; R. v. Saku, 9 Haw. 548.

## CHAPTER 24.

## CRUELTY TO ANIMALS.

§203. If any person shall over-drive, over-load, torture, torment, deprive of necessary sustenance, or cruelly beat or needlessly mutilate or kill, or cause or procure to be over-driven, over-loaded, tortured, tormented, or deprived of necessary sustenance, or to be cruelly beaten, or needlessly mutilated or killed, as aforesaid, any living creature, every such offender shall, for every such offense, be guilty of a misdemeanor.

§204. Any person who shall keep or use, or in any way be connected with or interested in the management of, or shall receive money for, the admission of any person to any place kept or used for the purpose of fighting or baiting any bull, bear, dog, cock, or other creature, and every person who shall encourage, aid or assist therein, or who shall permit or suffer any place to be so kept or used, shall, upon conviction thereof, be adjudged guilty of a misdemeanor.

§205. Any poundmaster who shall receive into his pound any creature, shall supply the same, during such confinement, a sufficient quantity of good and wholesome food and water, and in default thereof shall, upon conviction, be adjudged guilty of a misdemeanor.

§206. If any person shall carry or cause to be carried, in or upon any vehicle or other conveyance, any creature, in a cruel or inhuman manner, he shall be guilty of a misdemeanor.

§207. Every person who shall willfully set on foot, or instigate, or move to, or carry on, or promote, or engage in, or do

any act towards the furtherance of any act of cruelty to animals shall be guilty of a misdemeanor.

§208. Any person who shall sell or offer for sale, or use, or expose, or who shall cause or procure to be sold, or offered for sale, or used, or to be exposed, any horse or any other animal having the disease known as glanders, or farcy, or any other contagious or infectious disease, known by such person to be dangerous to human life, or which shall be diseased past recovery, shall be guilty of a misdemeanor.

§209. The agent of any society which shall be formed or incorporated for the prevention of cruelty to animals, upon being appointed thereto by the president of such society, in any district in this Republic, may within such districts make arrests and bring before any District Magistrate thereof offenders found violating the provisions of this Act, to be dealt with according to law.

§210. Any officer, agent or member of such society may lawfully interfere to prevent the perpetration of any act of cruelty upon any animal in his presence. Any person who shall interfere with or obstruct any such officer, agent or member in the discharge of his duty shall be guilty of a misdemeanor.

§211. When any person arrested is at the time of such arrest in charge of any vehicle drawn by or containing any animal, any Agent of such society may take charge of such animal and of such vehicle and its contents, and deposit the same in a safe place of custody, or deliver the same into the possession of the police or Sheriff of the place wherein such arrest was made, who shall thereupon assume the custody thereof.

§212. Upon complaint under oath to any District Magistrate authorized to issue warrants in criminal cases, that the complainant has just and reasonable cause to suspect that any



of the provisions of law relating to or in anywise affecting animals are being, or are about to be, violated in any particular building or place such Magistrate shall immediately issue and deliver a warrant to any person authorized by law to make arrests for such offenses, authorizing him to enter and search such building or place and to arrest any person there present found violating any of said laws, and to bring such person before the nearest Magistrate of competent jurisdiction, to be dealt with according to law.

§213. In this Act and in every law passed, or which may be passed, relating to or affecting animals, the singular shall include the plural. The words "animal" or "dumb animal" shall be held to include every living creature; the words "torture," "torment," or "cruelty," shall be held to include every act, omission, or neglect whereby unjustifiable physical pain, suffering or death is caused or permitted; and the words "owner" and "person" shall be held to include corporations as well as individuals.

§214. Any person convicted under the provisions of this Act shall forfeit and pay any sum not exceeding twenty dollars or be imprisoned with or without hard labor not exceeding one month or be punished by both such fine and imprisonment.

NOTE TO CHAPTER 24.

§§203-213 are S. L. 1884, Ch. 51, repealing P. C. Ch. 24. §214 is S. L. 1886, Ch. 13.

Cases in Hawaiian Reports: King v. Tai Wa, 5 Haw. 598.

## CHAPTER 25.

## FELONIOUS BRANDING OF CATTLE.

§215. Whoever shall willfully and feloniously brand, or otherwise mark, any kine, horse, mule, sheep, goat or other cattle belonging to another, with his mark, or with the mark of another not the owner of the animal so branded or marked, with the intent to convert it to his own use, or to the use of another, shall be punished by a fine not exceeding one hundred dollars for each kine, horse, mule, sheep, goat, or other cattle thus branded or marked; and in addition to such fine, he shall restore the cattle or the value thereof to the lawful owner. In default of the payment of such fine and the restoration of the cattle or the value thereof, or either, the offender shall be punished by imprisonment at hard labor not more than two years.

## NOTE TO CHAPTER 25.

§215 is P. C. Ch. 25, unaltered.

Cases in Hawaiian Reports: *Davis v. Green*, 2 Haw. 367.

## CHAPTER 26.

## RIDING AND DRIVING.

§216. Whoever furiously or heedlessly of the safety of others, rides any horse or other animal, or drives or conducts any vehicle, and thereby imminently endangers the personal safety of any person, shall be punished by a fine not less than five dollars nor exceeding five hundred.

§217. Whoever furiously or heedlessly of the safety of others, rides any horse or other animal, or drives or conducts any vehicle, though at the time the personal safety of any person be not endangered thereby, shall be punished by fine not less than five dollars nor exceeding one hundred.

§218. Whoever drives, leads, or otherwise conducts any wild bull, bullock, cattle, or other ferocious or dangerous animal in the street of any village, or in any place of public resort, shall, in case the personal safety of any person is thereby imminently endangered, be punished by fine not less than five dollars, nor exceeding five hundred, or in case the personal safety of any person is not so endangered, by a fine not less than five dollars, nor exceeding one hundred.

§219. Whoever frightens, exasperates, or animates a horse or other animal, and thereby endangers the personal safety or the personal property of any person, or of the animal itself, being that of another, shall be punished, in case the personal safety of any person is thereby imminently endangered, by fine not less than five dollars, nor exceeding five hundred: otherwise by fine not less than five dollars nor exceeding one hundred.

§220. Whoever is convicted of either of the offenses specified in the preceding sections, committed after a previous conviction and sentence for either of such offenses, shall be punished in addition to the fine imposed, by imprisonment at hard labor not exceeding six months.

§221. No dray used for the carriage of goods or freight of any description within the district of Honolulu, shall, whether laden or unladen, be driven at a faster pace than a walk.

#### LIGHTS.

§222. The driver of every vehicle which shall be driven after dark within the said district of Honolulu, shall cause a sufficient light or lights to be kept burning on every such vehicle during the hours of darkness.

§223. Any person violating the provisions of Sections 221 or 222 shall, on conviction before the District Magistrate of Honolulu, be fined in a sum not exceeding ten dollars for every such offense.

§224. The driver of every vehicle used for pleasure, the carrying of passengers, transporting of freight or for any other purpose, which shall be driven upon any public street, road or highway of the Republic, shall cause a suitable light or lights to be kept burning on every such vehicle during the hours of darkness.

Any person violating the provisions of this Section shall, upon conviction before any District Magistrate, be fined in a sum not exceeding ten dollars.

§225. The rider and user of every bicycle or tricycle or vehicle of a similar nature which shall be ridden or used within the District of Honolulu after dark shall cause a sufficient light

or lights to be kept burning on every such vehicle during the hours of darkness.

Any person violating the provisions of this Section shall upon conviction before the District Magistrate of Honolulu be fined in a sum not exceeding ten dollars for every such offense.

NOTE TO CHAPTER 26.

§§216-220 are P. C. Ch. 26 §§1-5. §§221-223 are S. L. 1880, Ch. 43, C. L. p. 619. §224 is S. L. 1892, Ch. 11. §225 is S. L. 1892, Ch. 28.  
Cases in Hawaiian Reports: Cummins v. Sumner, 3 Haw. 170; R. v. Wall, 7 Haw. 760; Williams v. Pantheon Stables, 8 Haw. 171; P. G. v. Tam Sing, 9 Haw. 284; Re Tramways Co., 9 Haw. 281.

LIBRARY  
OF THE  
HAWAIIAN  
ISLANDS

## CHAPTER 27.

## PERJURY.

§226. Perjury is willfully, knowingly and falsely stating, verbally or in writing, some material fact on oath where the oath is required or authorized by law.

An oath includes an affirmation within the meaning of this Act. The oath or affirmation must be duly administered by one having legal authority to administer the same, either in person or through an interpreter.

§227. Subornation of perjury is the willfully and corruptly procuring another to commit perjury.

§228. Whoever is guilty of perjury or subornation of perjury shall be punished by imprisonment at hard labor not more than twenty years.

## NOTE TO CHAPTER 27.

§§226-228 are S. L. 1896, Act 33, repealing P. C. Ch. 27.

Cases in Hawaiian Reports: *Rex v. Papa and Kameakua*, 1 Haw. 195; *King v. Bili Kamakana*, 3 Haw. 313; *R. v. Angee*, 8 Haw. 259; *R. v. Ah Fook*, 8 Haw. 265; *R. v. Chee Wai*, 8 Haw. 728.

## CHAPTER 28.

## CONSPIRACY.

§229. A conspiracy is a malicious or fraudulent combination or mutual undertaking or concerting together of two or more, to commit any offense or instigate any one thereto, or charge any one therewith; or to do what plainly and directly tends to excite or occasion offense, or what is obviously and directly wrongfully injurious to another:

For instance—

A confederacy to commit murder, robbery, theft, burglary or any other offense provided for in the criminal code; to prevent, obstruct, defeat or pervert the course of justice, by suborning a witness, tampering with jurors, or the like offenses:

To groundlessly accuse any one of, and cause him to be prosecuted for, an offense:

To charge any one with an offense, with the intent and for the purpose of extorting money from him:

To falsely charge one with being the father of an illegitimate child:

To cheat another by means of false tokens and pretenses:

To manufacture a spurious article for the purpose of defrauding whomsoever the same can be sold to:

To destroy a will and thereby prejudice the devisees:

To prevent another, by indirect and sinister means, from exercising his trade, and to impoverish him.

To establish, manage or conduct a trust or monopoly in the purchase or sale of any commodity.

§230. Any person knowingly acceding to and joining in a conspiracy after the same is formed, is a party thereto, no less than the one who originally takes part in forming the same.

§231. It is not requisite that the act agreed upon should be done or attempted in pursuance of the conspiracy; the conspiracy itself constitutes the offense.

§232. The act of each party to a conspiracy, in pursuance thereof, is the act of all.

§233. Husband and wife cannot by themselves, without others, be guilty of a conspiracy, and the acts or confessions of either are not evidence against the other in a prosecution for conspiracy.

§234. Conspirators may be tried jointly or severally. But to prevent oppression by joining parties, and thus depriving some of the testimony of others, it is provided that in the trial of any one for a conspiracy, another, charged as a co-conspirator, may be a witness, and in such case the two may be separately tried, though joined in the indictment.

§235. Where one is convicted of any offense, he is not liable thereafter to be tried for or convicted of a conspiracy to commit the same; and if a conspiracy to commit an offense and the commission of the same be charged in the same indictment, the defendant is liable to be sentenced for one only.

§236. On a prosecution for conspiracy, if the jury find, or the Magistrate having jurisdiction of the fact, consider the offense to be trivial, the defendant shall be discharged, with or without costs, in the discretion of the Court.

§237. Conspiracy to commit, or to instigate to the commission of a felony; or to charge any one with felony; or to pre-



vent, obstruct, defeat, or pervert the course of justice; or to forge or counterfeit or cheat to an amount exceeding one hundred dollars, is in the first degree, and shall be punished by imprisonment at hard labor not more than ten years, or by fine not exceeding one thousand dollars, in the discretion of the Court.

§238. A conspiracy to establish, create, manage or conduct a trust or monopoly in the purchase or sale of any commodity is in the second degree, and shall be punished by imprisonment at hard labor not more than two years, or by fine not exceeding ten thousand dollars, in the discretion of the Court.

§239. Conspiracy not appearing to be in the first and second degrees, is in the third degree, and shall be punished by imprisonment at hard labor not exceeding one year and by fine not exceeding four hundred dollars, in the discretion of the Court.

NOTE TO CHAPTER 28.

§229 is P. C. Ch. 28 §1, amended S. L. 1892, Ch. 102. §§230-237 are P. C. Ch. 28 §§2-9. §§238-239 are S. L. 1892, Ch. 102.

Cases in Hawaiian Reports: *Rex v. Anderson and Russell*, 1 Haw. 41; *King v. Thornton*, 4 Haw. 45; *Rex v. Ho Fon*, 7 Haw. 758; *R. v. Marks*, 1 Haw. 81; *R. v. Macfarlane*, 7 Haw. 352; *R. v. Walker*, 9 Haw. 171.

## CHAPTER 29.

## OBSTRUCTING THE COURSE OF JUSTICE.

§240. Whoever being lawfully made prisoner, or lawfully detained, on conviction or charge of any offense, or as a witness in any capital case, escapes from such imprisonment or detention against the will of the officer having him in custody, shall, in case the offense be capital, or punishable by imprisonment for life, or for ten years or more, be punished therefor by imprisonment at hard labor not more than three years, or by fine not exceeding five hundred dollars.

§241. In case of such escape from imprisonment on conviction or charge of, or as a witness in respect to, any offense otherwise punishable than as described in the preceding section, the person so escaping shall be punished by imprisonment at hard labor not more than one year, or by fine not exceeding one hundred dollars.

§242. Whoever, being a prisoner lawfully detained in the custody of any officer or other person authorized by law to detain such prisoner, in any other case than those provided for in the preceding sections, escapes, shall be punished by imprisonment at hard labor not more than three months, and by fine not exceeding ten dollars.

§243. Whoever rescues any prisoner or person lawfully held in custody on conviction or charge of any offense, or as a witness on a criminal charge; or aids or assists any such prisoner, witness or person so held in custody in his design or endeavor to

escape, whether his escape be or be not effected or attempted; or conveys into any fort or other prison, any disguise, tool, weapon, or other thing adapted to facilitate, and with intent to facilitate the escape therefrom of any such prisoner, witness or other person, shall, in case the aforesaid offense or criminal charge be capital, or punishable by imprisonment for life, or for ten years or more, be punished by imprisonment at hard labor not more than three years, and by fine not exceeding five hundred dollars: In any other case, he shall be punished by imprisonment at hard labor not more than one year, and by fine not exceeding one hundred dollars.

§244. Whoever aids any prisoner lawfully imprisoned for any other cause than those mentioned in the preceding section, to escape from the custody of an officer or other person authorized by law to detain such prisoner, shall be punished by imprisonment not more than six months, and by fine not exceeding fifty dollars.

§245. Any jailor or other officer who voluntarily suffers any prisoner in his custody upon conviction of or charged with any offense, to escape, shall suffer like punishment and penalties as the prisoner so suffered to escape was sentenced to, or would be liable to suffer upon conviction for the crime or offense wherewith he stood charged.

§246. Any jailor or other officer who, through negligence, suffers any prisoner in his custody, upon conviction of or charged with any offense, to escape; or who willfully refuses to receive into his custody any prisoner lawfully committed thereto, shall be punished by imprisonment at hard labor not exceeding two years, or by fine not exceeding five hundred dollars.

§247. Any officer authorized by law to serve or execute any lawful process to him directed, delivered or offered, requiring him to apprehend or confine any person convicted of or charged

with an offense, who willfully and corruptly refuses, neglects, or delays to serve the same, whereby such person shall avoid arrest and go at large, shall be punished by imprisonment at hard labor not more than one year, or fine not exceeding three hundred dollars.

§248. Any person required by the Marshal, or by any Sheriff, Deputy Sheriff or Constable to assist him, in case of emergency, in the execution of his office in any criminal case, or in the preservation of the peace, or the apprehending or securing of any person for a breach of the peace, who refuses or neglects to render the assistance so required, shall be punished by fine not exceeding fifty dollars.

§249. Whoever rescues a thing that is under legal seizure or detention, with intent to defeat such seizure or detention, or impede, oppose, or defeat the process whereby the thing is seized or detained, shall be punished by fine not exceeding five hundred dollars.

§250. Whoever falsely assumes to be a District Justice, Marshal, Sheriff, Deputy Sheriff, Constable or other officer of the Government, and takes upon himself to act as such, shall be punished by imprisonment at hard labor not more than one year, or by fine not exceeding one hundred dollars.

§251. Whoever, having knowledge of the commission of any offense punishable with death, or by imprisonment for life, shall give or receive any money, service or other gratuity or reward, to compound or conceal such offense, or not to prosecute therefor, or not to give evidence thereof, shall be punished by imprisonment at hard labor not more than five years, or by fine not exceeding five hundred dollars. Where the offense is not punishable as aforesaid, he shall be punished by imprisonment at hard labor not more than one year, or by fine not exceeding one hundred dollars.

§252. Whoever, willfully intending to prevent or obstruct the course of justice, shall give any gratuity or reward, or make any promise thereof, express or implied, that any one shall evade giving his testimony, or shall destroy, conceal or suppress any deposition or other legal evidence in any suit or proceeding, criminal or civil, shall be punished by imprisonment at hard labor not more than one year, or by fine not exceeding five hundred dollars.

§253. Whoever willfully obstructs or attempts to obstruct the public legislation, or the due administration of the law, by threats of violence against, or intimidation of, or endeavoring to intimidate any member of the Privy Council, Legislature, or any legislative, judicial, executive or other officer charged with any duty in the administration, enforcement or execution of the law, shall be punished by imprisonment not more than one year, or by fine not exceeding five hundred dollars.

§254. Whoever is guilty of corruptly influencing or attempting to corruptly influence any one serving or summoned as a juryman, in favor of or against any party to any suit or matter pending at the time, or that may thereafter come before such juryman for his verdict or decision, shall be punished by imprisonment at hard labor not more than one year, or by fine not exceeding five hundred dollars.

§255. Whoever corruptly gives or promises to any executive, legislative or judicial officer, or to any master in chancery, juror, appraiser, referee, arbitrator or umpire, any gift, gratuity, service or benefit, with intent to influence his vote, judgment, opinion, decision or other acts as such in any case, question, proceeding or matter pending, or that may by law come or be brought before him in his capacity as aforesaid, shall be punished by imprisonment at hard labor not more than two years, or by fine not exceeding five hundred dollars.

§256. Every executive, legislative, judicial or civil officer, or any master in chancery, or any person acting or summoned as a juror; or any appraiser, referee, arbitrator or umpire, who corruptly accepts any gift, gratuity, beneficial service, or act or promise of either, under an agreement, or with an understanding that he shall in the exercise of any function in his capacity as aforesaid, vote, decide, or act in any particular manner in any cause, question, proceeding or matter pending or that may by law come or be brought before him, shall be punished by imprisonment at hard labor not more than five years, or by fine not exceeding one thousand dollars.

#### CONTEMPT OF COURT.

§257. Whoever, after trial by jury, is adjudged guilty of contempt of any judicial Court, whether by open resistance to the process or proceedings thereof, or of any Judge or Justice thereof in the lawful exercise of his judicial functions; or by insulting, contemptuous, contumelious, disrespectful or disorderly language, behavior or act, or breach of the peace, noise or other disturbance in the presence or hearing thereof when in session; or by willful disobedience or neglect of any lawful process or order; or by refusing to be sworn as a witness, or when sworn, to answer any legal and proper interrogatories; or by publishing animadversions on the evidence or proceedings in a pending trial tending to prejudice the public respecting the same, and to obstruct and prevent the administration of justice; or by knowingly publishing an unfair report of the proceedings of a Court, or malicious invectives against a Court or jury tending to bring such Court or jury, or the administration of justice into ridicule, contempt, discredit or odium, shall be punished by imprisonment at hard labor not exceeding two years, or by fine not exceeding five hundred dollars; provided, however, that every judicial tribunal, acting as such, and every Magistrate acting by authority of law in a judicial capacity, may summarily punish persons guilty of contempt, as follows:

1. The Supreme Court, by imprisonment not more than three months, or by fine not exceeding one hundred dollars, or by both such fine and imprisonment, in the discretion of the Court.

2. Any Circuit Court, or any Court of Probate, by imprisonment not more than two months, or by fine not exceeding one hundred dollars.

3. Any Circuit Judge or Police Justice, by imprisonment not more than thirty days, or by fine not exceeding fifty dollars.

4. Any District Justice, Coroner, or other person acting in a judicial capacity by authority from any Court of Record, by imprisonment not more than ten days, or by fine not exceeding ten dollars.

§258. Hereafter it shall not be lawful for any Court, Judge, Police Justice, District Justice, Coroner or any other person having power to inflict punishment upon any person who may be adjudged guilty of contempt, to add the punishment of hard labor to any sentence which may be passed upon any such person adjudged guilty as aforesaid.

§259. Persons punished according to the provisions of Section 257 shall also be liable to indictment for the same misconduct, if it be an indictable offense; but the Court before which a conviction is had on the indictment, in passing sentence, shall take into consideration the punishment before inflicted.

§260. When the contempt consists in the omission or refusal to perform an act which is yet in the power of the party to perform, he may be imprisoned until he have performed it, and in that case the act shall be specified in the warrant of commitment.

§261. The publication of proceedings before any Court or Judge, shall not be deemed to be contempt, nor shall such publication be punishable as contempt.

## 124 OBSTRUCTING THE COURSE OF JUSTICE.

§262. Constructive contempts shall not be punishable as such.

### NOTE TO CHAPTER 29.

§§240-256 are P. C. Ch. 29 §§1-17. §257 is P. C. Ch. 29 §18, amended S. L. 1872, Ch. 13, C. L. p. 318. §258 is S. L. 1872, Ch. 13, C. L. p. 318. §§259-260 are C. L. §§1097-1098. §§261-262 are S. L. 1888, Ch. 42.

Cases in Hawaiian Reports: *Onomea v. Austin*, 5 Haw. 606; *Ackerman v. Congdon*, 7 Haw. 34; *Loo Gnawk v. Cartwright*, 7 Haw. 401; *Re v. Sin Hook*, 8 Haw. 185; *Re Bush*, 8 Haw. 223; *Govt. v. Stone*, 9 Haw. 363; *R. v. Young Hee*, 10 Haw. 114; *P. G. v. Caecires*, 9 Haw. 522; *R. v. Asegut*, 3 Haw. 540; *R. v. Sherman*, 1 Haw. 250; *R. v. Ah You*, 3 Haw. 393; *R. v. Aho*, 5 Haw. 565; *Kalaeokekoi v. Kahanu*, 4 Haw. 484; *R. v. Webster*, 1 Haw. 95; *Re Campbell*, 2 Haw. 27; *Re Morrison*, 2 Haw. 292; *Re Lyons*, 6 Haw. 452; *R. v. Robertson*, 6 Haw. 718; *Alau v. Everett*, 7 Haw. 82; *Smith v. Aholo*, 7 Haw. 115; *R. v. Lee Fook*, 7 Haw. 249; *Re Sheldon*, 9 Haw. 32.



## CHAPTER 30.

## FORGERY.

§263. Forgery is the fraudulent making or altering a writing, with the intent to deceive another and prejudice him in some right.

§264. A writing comprehends manuscript, print, inscriptions, figures, marks, and other modes of indicating, upon paper or other material substance, words, sense, or meaning.

§265. The making of the initials of one's name or a mark as his signature to a promissory note or other document; or the stamping of a signature, with intent to defraud, is as much a forgery as if the party had signed that person's name.

§266. An intent to deceive is essential to forgery, but it is not essential that any one should in fact be thereby deceived.

§267. In order to constitute forgery, the writing must, as made or altered, purport to be the writing of another party than the person making or altering the same; except in the case of an alteration by the maker of a writing, in which others have a property or direct interest.

§268. It is not necessary, in order to constitute a forgery, that there should really be any such other person or party as the writing purports. For example, the drawing of a bill of exchange in the name of a fictitious person is as much a forgery as if it had been made in the name of one who was known to exist, and to whom credit was due.

§269. To constitute forgery, it is not essential that the forged instrument should be so made that, if genuine, it would be valid. For example, it is forgery to fabricate any false instrument on unstamped paper, which by law requires a stamp, or to make a false will of a living person, notwithstanding it can have no validity as a will until his death; provided, however, that it is essential to constitute forgery, that the false instrument should carry on its face the semblance of that for which it was counterfeited, and that it should not be obviously invalid, void, and of no effect.

§270. The deceptive and fraudulently making of one's own signature, as being that of another, the writing being such that others might thereby be deceived and defrauded or prejudiced, is forgery.

§271. Whoever is guilty of the forgery of any deed of conveyance, lease, promissory note, bill of exchange, due bill, check, order or request to pay money, or other writing whatever, to the amount, or involving or affecting the amount, or value of one hundred dollars or more, shall be punished by imprisonment at hard labor not more than ten years, and by fine not exceeding five hundred dollars.

§272. Whoever is guilty of the forgery of any writing to an amount less than that specified in the preceding section, shall be punished by imprisonment at hard labor not more than five years, and by fine not exceeding three hundred dollars.

§273. Whoever, knowing a writing to be false or forged, shall deceptively offer, pass, negotiate, assign or transfer the same, or put the same into circulation, as being true and genuine according to its apparent purport, shall be subject to the punishment above prescribed for the forgery of such writing.

§274. The cancelling, destroying, secreting, or obliterating a writing, being one's own or that of another, in which any other

person has any property or direct interest, with intent thereby to defraud any person, or prejudice any one in his person, property, rights or interests, and whereby any person might be defrauded or so prejudiced, shall be subject to the penalty of forgery of the like writing. For example, fraudulently destroying a writing previously executed and delivered by the party destroying the same, or destroying a writing by tearing off or abstracting a part thereof.

§275. The knowingly and fraudulently filling up a signed blank otherwise than the party filling up the same is authorized by the signer or other person empowered thereto, to fill up the same, with intent, in either case, to defraud or prejudice such signer or any other person, and where such signer or another might be thereby defrauded or prejudiced is subject to the penalty for forgery of a like writing. But this provision shall not affect the validity of such writing as against the parties liable thereon. The knowingly and fraudulently uttering such writing shall be subject to the penalty for uttering a like forged writing.

§276. The false and fraudulent alteration of a writing made by the party altering the same, and previously passed or delivered, the alteration being such as may tend to deceive and defraud any person, is equivalent to forgery of such writing, and shall be subject to the like punishment.

§277. The fraudulently and deceitfully procuring a signature to, or authentication of, a writing, under pretence that it is another and different writing, whereby the person signing or authenticating the same is deceived, and signs or authenticates the same as and for such other and different writing, shall be subject to the penalty for forgery of a like writing or authentication; and the knowingly and fraudulently uttering such writing or authentication shall be subject to the same penalty.

§278. Any officer or Magistrate, authorized by law to take any testimony, declaration or statement on oath, who, knowingly and corruptly, falsely takes or certifies any testimony, declaration or statement, as to the whole or in some material part, shall be subject to the penalty for forgery of like testimony, declaration, statement or certificate; and the knowingly and fraudulently uttering the same shall be subject to the same penalty.

§279. Any registrar of conveyances, notary public or other officer authorized by law to take acknowledgment or proof of any deed of conveyance of real estate, or any other instrument, in order to entitle the same to be recorded, or to be produced in evidence, or in order to give the same validity, who falsely and corruptly certifies that any such deed was acknowledged to him by any party thereto, or that proof was given to him of the genuineness thereof, shall be subject to the penalty for forgery of a certificate of like description; and the knowingly and fraudulently uttering any such false certificate shall be subject to the same penalty.

§280. Any registrar of deeds, clerk of any Court, or any other officer or person having the legal custody of any public record, who corruptly and falsely, (in or as to any material point,) makes or certifies any record or purported copy thereof, shall be subject to the penalty for the forgery of a like record, copy or certificate; and the knowingly and fraudulently uttering of such false record or certificate shall be subject to the same penalty.

§281. Whoever, after having been convicted of any of the offenses provided against in this chapter, is thereafter convicted of the same, or any other of the said offenses, committed after his being so convicted, shall be subject to an additional like punishment, not exceeding by more than one half the maximum punishment provided by law for the offense of which he is last so convicted.

## NOTE TO CHAPTER 30.

§§263-281 are P. C. Ch. 30, unaltered.

Cases in Hawaiian Reports: King v. Kalahuli, 3 Haw. 417; King v. Nakakualii, 3 Haw. 472; King v. Naheleaumoku, 3 Haw. 501; King v. Helelilili, 5 Haw. 16; King v. Mahukalilili, 5 Haw. 96; Rex v. Makamaka, 7 Haw. 394.

## CHAPTER 31.

## COINS AND CURRENCY.

§282. Counterfeiting is the fraudulent making, or assisting in the making of a resemblance of coin, of less intrinsic value than the genuine coin of which it is a resemblance, with the intent that the same shall be uttered, or put in circulation.

§283. Whoever shall fraudulently diminish the coin by clipping, filing, boring or abrading it, or otherwise taking away a part of any true and genuine coin, and substituting a metal or substance of less intrinsic value in place of the part so taken away, or without such substitution with the intent that the same so diminished in quality or intrinsic value, shall thereupon be uttered as and for true and genuine coin, is guilty of counterfeiting, within the meaning of the provisions of this chapter.

§284. Whoever shall add to true and genuine coin, by washing, coloring or otherwise, any metal or substance so as to make it a resemblance of coin of a greater intrinsic value, with the intent that it shall thereupon be uttered as and for true and genuine coin, is guilty of counterfeiting, within the meaning of the provisions of this chapter.

§285. The fraudulently putting counterfeit coin into circulation; passing it, or tendering it, or offering to pass it, as being true and genuine, or aiding therein, knowing the same to be counterfeit, is uttering the same; so also the selling, passing, delivery or parting with counterfeit coin as such; with the intent that the same shall be, or with sufficient ground to believe

that the same will be thereupon passed, tendered, or offered to be passed as true and genuine, is uttering the same.

§286. The term coin, or true and genuine coin, as used in this chapter, includes only gold or silver money, or money of which gold or silver, or both, are the principal constituent parts, current by law or usage.

§287. Whoever is guilty of counterfeiting, or of uttering any counterfeit coin, being in confederacy with the counterfeiter, or being himself the counterfeiter thereof, shall be punished by imprisonment at hard labor for life, or any number of years, in the discretion of the Court.

§288. Whoever is guilty of uttering any counterfeit coin; or of having in his possession ten or more pieces of counterfeit coin, knowing the same to be counterfeit, with the intent to utter the same as true and genuine, shall be punished by imprisonment at hard labor not more than twenty years, or by fine not exceeding one thousand dollars, and imprisonment at hard labor not more than five years.

§289. Whoever is guilty of having in his possession any number of pieces of counterfeit coin less than ten, knowing the same to be counterfeit, with the intent to utter the same as true and genuine, shall be punished by imprisonment at hard labor not more than ten years, or by fine not exceeding five hundred dollars, and imprisonment at hard labor not more than two years.

§290. Whoever utters counterfeit coin, knowing the same to be such, having received the same in good faith as true and genuine, upon legal and valid consideration, shall be punished by imprisonment at hard labor not more than five years, or by fine not exceeding one thousand dollars.

§291. Whoever knowingly casts, stamps, makes, or mends, or knowingly has in his possession any mould, pattern, die or other tool or machine adapted and designed for counterfeiting coin, with intent to use or employ the same, or cause or permit the same to be used or employed, for counterfeiting coin, shall be punished by imprisonment at hard labor not more than twenty years, or by fine not exceeding one thousand dollars, and imprisonment at hard labor not more than five years.

§292. Whoever, having been once convicted of any of the offenses provided against in this chapter, shall thereafter be convicted of any or either of such offenses committed after such former conviction, shall be punished by an additional like punishment, not exceeding by more than one half, the punishment for the offense of which he is last so convicted.

§293. It shall be unlawful to cut and divide any of the lawful coins of the Republic into two or more pieces with the intent that such fractional pieces shall be used as coin. Whoever is guilty of mutilating the lawful coin of the Republic, shall upon conviction before a District Magistrate, be punished by a fine of ten dollars, or by imprisonment at hard labor for twenty days.

§294. It shall be unlawful to pass or utter a fractional piece or pieces of coin as money, or as an equivalent for money. Whoever is guilty of passing or uttering such fractional coin as aforesaid shall upon conviction before any District Magistrate be punished by a fine of five dollars or by imprisonment at hard labor for ten days.

§295. It shall be unlawful to receive a fractional piece or pieces of mutilated coin as money or as an equivalent therefor. Whoever is guilty of receiving such fractional pieces as aforesaid shall upon conviction before any District Magistrate, be pun-



ished by a fine of two dollars or by imprisonment at hard labor for five days.

§296. Nothing in Sections 293, 294 or 295 contained shall be held to prohibit the buying up of mutilated coin as bullion.

§297. Any person or corporation, or officer thereof, or any company of persons, who shall issue any note, bill, order, check, or certificate of deposit in any sum of money with the intent that the same shall be circulated as currency, shall be guilty of misdemeanor, and for every offense shall be punished by a fine of fifty dollars, or be imprisoned at hard labor not to exceed one month.

§298. Any person, or any corporation or officer thereof, or any company of persons, who shall pass any note, bill, order, check, or certificate of deposit (excepting only Hawaiian Government certificate of deposit) which has already been issued, or shall be issued before this Act shall come into operation, with the intent that the same shall be circulated as currency shall be deemed guilty of a misdemeanor, and, on conviction thereof, be punished by a fine of fifty dollars, or by imprisonment at hard labor not to exceed one month.

#### NOTE TO CHAPTER 31.

§§282-292 are P. C. Ch. 31 §§1-11. §§293-296 are S. L. 1890, Ch. 69. §§297-298 are S. L. 1888, Ch. 73.

## CHAPTER 32.

## LIBEL.

§299. A libel is a publication in writing, print, or by a picture, statue, sign, or a representation other than by words merely spoken which directly tend to injure the fame, reputation or good name of another person, and to bring him into disgrace, abhorrence, odium, hatred, contempt or ridicule, or to cause him to be excluded from society.

§300. The making of a libel is the writing, printing, devising, or in any way forming the same; or aiding or assisting therein, with the intent in either case, that it shall be published. As, for example, the dictating or repeating it to another to write, or writing on such dictation.

§301. The publishing of a libel is the maliciously putting of it into circulation, or the promulgating, exhibiting or distributing of it for the purpose of making it known to others; and thereby in fact making it known to others; or aiding or assisting therein, or the causing or promoting thereof.

§302. Malice is shown, in respect of libel, by making a publication or communicating it to others, willfully and purposely to the prejudice and injury of another. Hatred or ill will towards the party injured is not essential to libel.

§303. In every prosecution for writing or publishing a libel, the defendant may give in evidence, in his defense upon the trial the truth of the matter contained in the publication charged

to be libelous: Provided, however, that such evidence shall not be deemed a justification, unless it shall be further made to appear on the trial that the matter was published with good motives and for justifiable ends.

§304. The offense of making, as also that of publishing a libel, is of two degrees, and the degree is to be found by the jury, or determined by the Court or Magistrate authorized to decide on the facts; and so also the degree is to be determined by the Court before which proceedings are had, where the facts charged are admitted by plea or otherwise.

§305. Whoever is guilty of the offense of making or publishing a libel in the first degree, shall be punished by imprisonment at hard labor not more than one year, or by fine not exceeding one thousand dollars, in the discretion of the Court.

§306. Whoever is guilty of the offense of making or publishing a libel in the second degree, shall be punished by imprisonment at hard labor not more than three months, or by fine not exceeding three hundred dollars, in the discretion of the Court.

§307. A libel on the dead is subject to a like punishment as one on the living, where the same is malicious in respect to persons living, and defamatory of, or an outrage against, or an injury to, persons living, and is intended so to be by the maker or publisher.

§308. A libel may be of a body, board, class, society or association of individuals, public or private, no less than of one or more persons individually.

§309. Every public officer, and any board or body of persons having legal jurisdiction and cognizance of a matter, is privileged in writing, printing or publishing in good faith, and in

the usual or in due course of proceedings, any thing, the writing, printing or publishing of which pertains to the legal exercise of his functions and legal discharge of his duty as such. For example, judges are privileged in what concerns the due administration of justice, and juries in rendering their verdicts.

§310. Any person giving testimony or making statements under oath, is not chargeable with libel for what he testifies relative to the subject matter in respect to which his testimony is required, or in pertinent reply to the interrogatories on which he is examined.

§311. A person shall not be subject to the punishment for libel, for anything pertinent to the subject matter of consideration or inquiry, in good faith and on probable grounds, written, or printed, or published by him in the usual manner, or in due course of proceedings, as a party, counsel, agent, guardian or representative of, or in behalf, of a party, or of the public, in any prosecution, suit, petition, complaint or memorial, pending or about to be brought before any Court, jury, arbitrator, officer, person, board, or body, having according to law or the agreement of parties, authority to proceed therein.

#### NOTE TO CHAPTER 32.

§§299-304 are P. C. Ch. 32 §§1-6. §§305-306 are S. L. 1884, Ch. 11. §§307-311 are P. C. Ch. 32 §§9-13.

Cases in Hawaiian Reports: *Waterhouse v. Spreckels*, 5 Haw. 246; *King v. Gibson*, 6 Haw. 310; *Govt. v. Smith*, 9 Haw. 178-257.

## CHAPTER 33.

## AFFRAY.

§312. An affray is the fighting of two or more persons in a public place; and includes any prize fight or other premeditated contention, where no weapons are used. Whoever takes part in, encourages, or promotes an affray, or is willfully present as a spectator at any prize fight or other premeditated contention, shall be punished by fine not exceeding five hundred dollars or by imprisonment at hard labor not more than six months.

## NOTE TO CHAPTER 33.

§312 is S. L. 1896, Act 26, repealing P. C. Ch. 33.

CHAPTER 34.

DRUNKENNESS—BLASPHEMY—PROFANITY.

§313. Whoever is found drunk in any street, road or other public place, from the voluntary use of any intoxicating liquor, shall, on the first conviction for such offense, be punished by a fine not exceeding six dollars, and on any conviction for any like offense committed after the first conviction by a fine not exceeding twelve dollars, or by imprisonment at hard labor not more than three months, but no prosecution for such offense shall be sustained unless it shall be commenced within six days after the commission thereof.

§314. Whoever blasphemes the holy name of God, by denying, cursing, or contumeliously reproaching God, His creation, government, or final judging of the world; or by cursing or contumeliously reproaching Jesus Christ or the Holy Ghost; or by cursing or contumeliously reproaching the holy word of God, contained in the holy scriptures, or exposing them to contempt or ridicule, shall be punished by imprisonment at hard labor not more than one year, or by fine not exceeding one hundred dollars.

§315. It shall be unlawful for any person to use vulgar, profane or obscene language in any street, highway, store, shop or other public place or place of public resort. Any violation of this Section shall be punished by a fine of not more than

DRUNKENNESS—BLASPHEMY—PROFANITY. 139

twenty dollars, or by imprisonment at hard labor of not more than one month.

NOTE TO CHAPTER 34.

§313 is S. L. 1876, Ch. 4, C. L. p. 573. §314 is P. C. Ch. 34, §2. §315 is S. L. 1892, Ch. 64.

Cases in Hawaiian Reports: R. v. Ben, 10 Haw. 278.

## CHAPTER 35.

## VIOLATING THE SABBATH.

§316. Whoever willfully interrupts or disturbs any religious assembly or assembly for religious worship, whether such offender commit such offense within or without the place of assembly and whether such offense be committed on the Lord's day or at any other time, shall be punished by imprisonment at hard labor not more than thirty days, or by fine not exceeding fifteen dollars, in the discretion of the Court.

§317. All labor on Sunday is forbidden, excepting works of necessity or mercy, in which are included all labor that is needful for the good order, health, comfort or safety of the community, or for the protection of property from unforeseen disaster, or danger of destruction or injury, or which may be required for the prosecution of or attendance upon religious worship, or for the furnishing of opportunities of reading or study. Provided, however, that on Sunday until nine o'clock in the morning barber shops may be kept open and fresh meat and fresh fish may be sold and delivered; that until nine o'clock in the morning and after three o'clock in the afternoon milk may be delivered and cattle, sheep and swine may be slaughtered; that during the entire day meals may be sold to be eaten on the premises where sold or served elsewhere by caterers, drugs, medicines and surgical appliances may be sold, personal baggage may be conveyed to and from vessels leaving and arriving at port on that day, that the railroads may on Sunday carry passengers to connect with the steamers and public carriages, horse cars and licensed shoreboats may convey passengers for hire, and that



all labor which may be lawfully performed on Sunday shall be conducted, as far as possible, so as not to interfere with the right of the community and of each individual to quiet and repose.

§318. All public amusements, sports, shows and games on Sunday are hereby forbidden, and no one shall so prosecute or take part in any recreation, amusement, sport or game not of a public character, on Sunday, in such a manner as to interfere with the right of the community and of each individual to quiet and repose.

§319. Any person violating any of the provisions of Sections 317 or 318, shall, on conviction, be fined not over fifty dollars or be imprisoned not over thirty days.

§320. No person shall serve or execute any civil process on Sunday, and any such service or execution shall be void.

§321. Sunday within the meaning of the provisions of this Act, is the first day of the week and includes the time between the midnight preceding and the midnight following the same day.

§322. No keeper of a victualing house, restaurant or coffee shop, shall keep his house, restaurant or coffee shop open after seven o'clock on Sabbath afternoon.

§323. Any one violating Section 322, shall be fined, on conviction before any District Magistrate, not more than one hundred dollars nor less than twenty dollars for each offense, in the discretion of the Court.

#### NOTE TO CHAPTER 35.

§316 is P. C. Ch. 35 §1. §§317-321 are S. L. 1886, Ch. 53.  
§§322-323 are S. L. 1872, Ch. 4, C. L. p. 553.

Cases in Hawaiian Reports: Hubertson v. Cole, 1 Haw. 44.

## CHAPTER 36.

## COMMON NUISANCE.

§324. The offense of common nuisance is the endangering of the public personal safety or health, or doing, causing, or promoting, maintaining or continuing what is offensive, or annoying and vexatious, or plainly hurtful to the public, or is a public outrage against common decency or common morality, or tends plainly and directly to the corruption of the morals, honesty and good habits of the people, the same being without authority or justification by law.

As, for example, the carrying on a trade, manufacture or business in places so situated that others indiscriminately, who reside in the vicinity, or pass a highway or public place. or resort to a school house, meeting house or any other place of legal and usual resort or assembly, or liable to be thereby injured, annoyed, disturbed or endangered by deleterious exhalations, noisome vapors, hideous, alarming or disgusting sights, intolerable noise, or otherwise:

By spreading or endangering the spreading of the small pox, or other infectious disease; by carrying an infected person, or causing him to pass through a frequented street; by opening a hospital or pest house so as to endanger neighbors or the passers by in a frequented street, or otherwise:

Making or storing gunpowder in or near a populous, or public or frequented place, without authority therefor, or the otherwise making or storing the same contrary to law:

Making loud and troublesome noises by night:

Keeping animals that disturb the neighborhood by night:

Permitting ferocious or dangerous animals to go abroad:

Keeping a bawdy house:

Open lewdness or lascivious behavior, or indecent exposure:

Keeping a common gambling house:

Keeping a disorderly house, to the public disturbance and annoyance.

§325. Occasioning a groundless fear or merely a trivial annoyance or inconvenience is not a common nuisance. Whether the act or thing is really so hurtful or prejudicial to others as to render it a common nuisance, is a question of fact to be determined by the jury, Court or Magistrate called to pass upon the same.

§326. Where only a few persons, of many who are equally exposed, are, owing to their peculiarity of temperament, or to infirmity, annoyed by an act or thing, the same is not a nuisance.

As where the noise of a tinman's shop annoys but a few of many persons equally within hearing.

§327. Obstructing a highway, channel, entrance to a harbor, harbor town, navigable stream, or public place, without just cause, is a common nuisance.

As by digging a ditch, laying logs, erecting a gate or placing any other impediment in a highway:

By leaving carts or other vehicles standing in the highway an unreasonable time:

By using the highway as a timber yard, or a yard to a storehouse, or as a place to dry hides:

By erecting or maintaining a building, fence or structure within the limits of a highway or a public place:

By overflowing a highway:

By rapid or unskillful driving, or driving an unmanageable team on the highway and thereby endangering life:

By tying horses or other animals in the public streets for the purpose of grazing.

§328. Reasonable use of a highway as such is not a common nuisance: As, for example, unloading wood to put the same into a house standing near the highway, if it does not occupy an unreasonable portion of the highway, and is not left for an unseasonable, or for an unreasonable time.

§329. The firing, letting off or throwing of any rockets, squibs, crackers, or other fireworks in or near to frequented public highways or places of common resort, or the dwellings of others, or otherwise, to the annoyance and endangering of persons, or the endangering the destruction of or injury to property, is a common nuisance, except the same are fired, let off or thrown by license of the Governor, or in his absence, of the District Magistrate of the town, and in conformity with such license.

§330. The importing, printing, publishing, selling, offering for sale, putting into circulation, distributing, lending, exhibiting publicly, or introducing into any family, school or place of education, any obscene picture, or pamphlet, sheet or other thing containing obscene language, obscene prints, figures, description or representations, manifestly tending to the corruption of the morals of youth, or of morals generally; or buying, procuring, receiving or having in possession, any such picture, book, pamphlet, sheet or other thing, with intent to sell, circulate, distribute, lend, or exhibit the same, or to introduce the same into any family, school or place of education, is a common nuisance.

§331. The offense of common nuisance is of two degrees, and the degree is to be found by the jury, or determined by the Court or Magistrate authorized to decide on the facts; and so also the degree is to be determined by the Court before which proceedings are had, where the facts charged are admitted by plea or otherwise.

§332. Whoever is guilty of the offense of common nuisance in the first degree, for which punishment is not otherwise expressly provided by statute, shall be punished by imprisonment at hard labor not more than six months, or by fine not exceeding five hundred dollars.

§333. Whoever is guilty of the offense of common nuisance in the second degree, for which punishment is not otherwise expressly provided by statute, shall be punished by imprisonment at hard labor not more than two months, or by fine not exceeding twenty-five dollars.

§334. Where the lessee of a building makes the same a bawdy house, the lease or contract for letting the same shall at the option of the lessor become void, and the lessor shall thereupon have a like remedy for recovering possession, as against a tenant holding over after the expiration of his term; and moreover shall be entitled to rent for the whole term.

§335. Any District Magistrate, may issue a search warrant for the purpose of searching for any obscene books, pamphlets, pictures, or other things containing obscene language, prints, pictures, figures, or descriptions manifestly tending to the corruption of the morals of youth; and all such things as may be found by any officer in executing such warrant, or that may otherwise come to the possession of any officer, shall be safely kept, so long as shall be necessary for the purpose of being used as evidence in any case, and as soon as may be afterwards shall be destroyed by order of the Court before whom the same shall be brought.

#### OBSTRUCTION OF STREETS.

§336. No person shall place, leave or deposit in any street, lane, or alley, or upon any side or cross-walk, or upon any public wharf in the city of Honolulu, or in the towns of Lahaina, Hilo,

J

Wailuku or Kahului, any goods, wares, or merchandise, or any substance or material whatever, except as hereinafter permitted.

§337. No person shall hang, suspend, place, construct or cause or permit to grow over any such street, lane or alley, side or cross-walk or wharf, any sign, awning, frame, balcony, tree, bush, vine, provided such tree, bush, vine or other growth shall obstruct the street, or any other projection whatever, except as hereinafter permitted.

§338. No person shall dig any such street, lane, alley, side or cross-walk, or wharf, or remove or carry away any dirt, soil, plank, paving or flagging stone, or other material of which the same may be constructed, or take up or disturb any such plank, paving or flagging stone except as hereinafter permitted.

§339. No person shall erect or place in or upon any such street, lane, alley, side or cross-walk, or wharf, any hitching-post, telegraph or telephone poles, or flagstaff, or other structure, except as hereinafter permitted.

§340. Any person who shall do any of the acts prohibited by either of the foregoing four sections shall upon conviction thereof be fined not less than five dollars, nor more than twenty-five dollars, for each and every offense.

§341. The Road Supervisor shall notify any person who shall have placed, left or deposited any substance or material contrary to the provisions of Section 336, or who shall have hung, suspended, placed, constructed, or permitted to grow, any projection or article contrary to the provisions of Section 337 to remove the same, and the person so notified shall forfeit and pay a penalty of five dollars for every twenty-four hours that the same shall remain after such notice shall have been given.

§342. The Road Supervisor may grant permission in writing to any person about to erect any building to occupy a portion of the street and side-walk in front of the lot upon which such building is about to be erected, not exceeding one-half of the width of the street, and one-half of the width of the side-walk, for a reasonable time during the erection of such building; such permission shall not be granted for a longer period of time than two months, but may be extended by the Minister of the Interior, and may be revoked at any time by him if it shall be found to create a serious obstruction of the street or side-walk. When the time limited in such permission shall have expired, or such permission shall have been revoked, the person to whom such permission shall have been granted, shall cause all materials placed by him, and remaining in the street or upon the side-walk pursuant to such permission, to be removed within five days, and in default thereof shall be liable to a penalty of five dollars for every day that the same shall remain thereafter. Any person so occupying any portion of such road or side-walk shall place and maintain such lights near the obstruction as will prevent accidents.

§343. Any person may leave any goods, wares or merchandise, which shall be about receiving or delivering, for a period of time not exceeding three hours upon the side-walk in front of his building, such goods, wares and merchandise not to cover more than two-thirds, of the width of the side-walk, and not to be piled up to a greater height than four feet.

§344. Signs securely fastened to the building may be suspended over the side-walks not extending more than three feet from the building, at a clear height above the sidewalk of not less than eight feet.

§345. Awning supported by iron frame-work securely fastened to the building in front of which such awning shall be placed, every part of which frame-work shall be at least eleven

feet above the side-walk, extending to the outer edge of the same: Provided, however, that in case such balconies or verandahs shall not reach as far as the edge of the side-walk, they shall be supplemented by an additional roof or awning extending as far as the edge of the side-walk, not more than the width of such side-walk; and in case the awning is suspended from such frame, it shall be suspended on a line with the outer edge of the side-walk. On streets not less than fifty feet in width, balconies or verandahs may be constructed, no part of which shall be less than eleven feet above the side-walk. In no case shall such balcony or verandah exceed six feet in width, and in all cases the plans therefor shall be first approved by the Minister of the Interior or his agent.

§346. Posts for the purpose of hitching horses or other animals may be placed at the outer edge of the side-walk, or on the edge of the road in front of any building, and such posts shall be not more than four feet in height.

§347. The Minister of the Interior may grant permission to place, plant, or set out ornamental or shade trees within any side-walk not more than one foot from the outer edge thereof, and may grant permission to erect flagstaffs, telegraph or telephone poles in any or all of the streets or roads as may be for the public convenience; and the said Minister is hereby authorized to make regulations for the placing and erecting of the same, and such regulations must be strictly complied with by any person, firm or corporation to whom such permission shall be granted.

§348. The Road Supervisor may grant permission to any person, firm or corporation to dig up the side-walk and street in front of his or their lot or building, for the purpose of making a connection with any water or gas main or public sewer, or for other purposes. The person, firm or corporation to whom such permission shall be granted, shall, within twenty-four



hours from the time of the work is commenced, finish the same, and refill, replace, rebuild and relay the street and side-walk taken up or disturbed by him, in a substantial and workman-like manner, and leave the same in as good condition as it was when said permission was granted. If any excavation made for the purposes mentioned in this section shall remain open at night, the party having the permission shall place and maintain such light or lights near the opening as will prevent accidents.

§349. Goods, wares, and merchandise may be placed or piled upon any wharf in such manner as shall be most convenient, provided that suitable and convenient roadways and means of access are left open, and the said goods, wares and merchandise are not so placed or piled as to be dangerous to any person going to or upon said wharf, or dangerous to said wharf, and the Harbor Master is authorized to regulate such placing or piling, and any person placing or piling the same in a manner contrary to the direction of the Harbor Master shall be liable to a penalty of five dollars for each and every offense, and the same penalty for each day during which each such offense is continued.

§350. If any person who shall have received the notice provided in Section 341 shall not comply with such notice for the space of twenty-four hours, the Road Supervisor may remove the obstruction at the expense of such person, and such person shall be liable for the cost of such removal in addition to the penalty provided in such section.

§351. If any person who shall have received the permission provided in Section 342, shall fail to remove any material placed by him and remaining in the street or upon the side-walk within twenty-four hours after the time limited in such permission shall have expired, or after such permission shall have been revoked, or shall fail to place and maintain the lights therein required, the Road Supervisor may remove the same, and may

place and maintain such lights at the expense of such person, and such person shall be liable for the cost of such removal and of such lights in addition to the penalty provided in such section.

§352. Any person who shall violate any of the provisions of Sections 343, 344, 345, 346 and 347, shall be liable to a penalty of not less than five dollars, nor more than twenty-five dollars, for each and every offense.

§353. If any person who shall have received the permission provided in Section 348, shall fail to replace the street or side-walk, or to place the lights as therein provided, he shall be liable to a penalty of not less than five dollars, nor more than twenty-five dollars, for every twenty-four hours that the said default shall continue, and the Road Supervisor may replace the same, or place the said lights at the expense of such person, and such person shall be liable for the cost of such replacing, or of such lights in addition to said penalty for delay.

§354. No person shall drive, draw, or cause to go upon any side-walk any vehicle whatsoever, except when it shall be necessary for such vehicle to cross such side-walk for the purpose of going into some yard, or lot, or into some place where such vehicle is kept when not in use.

§355. No person shall hitch or fasten any horse, or other animal, to any ornamental or shade tree in the streets or side-walks, or to any box or frame around such tree.

§356. No person shall leave any horse or mule in any street, lane or alley, unless said horse or mule shall be securely tied or fastened.

§357. No person shall hitch or fasten any horse or animal in such manner that such horse or animal, or the appliance used

for hitching or fastening such horse or animal, shall obstruct the free passage along any side or cross-walk.

§358. No person shall leave or permit to remain upon any street, lane or alley, any vehicle belonging to him, or over which he shall have control, for a longer time than fifteen minutes, unless there shall be attached to said vehicle some draught animal. Nor shall any person unnecessarily obstruct the passage of any street, lane, alley or cross-walk, by means of any vehicle or animal.

§359. No person shall move, or cause to be moved, or assist in moving any building into, upon, along or across any street, lane, alley or side-walk, without having first obtained permission in writing so to do from the Minister of the Interior, or the Road Supervisor.

§360. No person shall fly kites in or upon any street, lane, alley or side-walk.

§361. Any person who shall do any of the acts prohibited by, or violate any of the provisions of Sections 354 to 360, both inclusive, or remove or extinguish any lights placed as provided by this Act, shall be liable to a penalty of not less than five, nor more than twenty-five dollars, for each and every offense.

§362. The several District Magistrates throughout the Republic shall have jurisdiction to hear and determine complaints for any violation of the provisions of this Act.

§363. Nothing in this Act shall be held to conflict with any laws or regulations which now exist, or which may hereafter exist for the fire control or management of the district known as the "Fire Limits of Honolulu." The provisions of this Act shall apply to all public streets, lanes, alleys or side-walks in the

towns herein within such limits as may be from time to time fixed by the Minister of the Interior.

#### POSTERS.

§364. Any person who shall affix or attach any show bill, hand bill, poster, advertisement or other notice to any building, fence, bridge, tree, rock, pole or other structure or object, without first obtaining the consent of the person or persons entitled to the possession of such building, fence, bridge, tree, rock, pole or other structure or object, shall be guilty of a misdemeanor, and upon conviction thereof before any District Magistrate shall be fined not more than twenty dollars for each offense.

#### ARTESIAN WELLS.

§365. Every flowing artesian well now on the Island of Oahu that may hereafter be made on said island, shall be capped by the owner or owners thereof in such a manner as to give complete control over the flow of water from the pipe of such well.

§366. No person having the right to the use of water from any such artesian well, shall allow the same to run to waste, but may use it for irrigation, domestic and other useful purposes, except for driving machinery, provided, however, that such water may be used for driving machinery in case it be utilized afterwards for irrigation or other useful purposes.

§367. Any person violating the provisions of Sections 365 and 366 shall, upon conviction thereof before any District Magistrate of the Island of Oahu, be fined not more than fifty dollars.

§368. For the more effectual carrying out of this Act, the Marshal and Deputy Marshal of the Republic, and all police-

men of the Island of Oahu, may at all times of night or day, enter without warrant any premises whereon artesian water is used.

## FEMALE BOARDING SCHOOLS.

§369. Any person or persons intruding without proper authority upon the premises of any female boarding school, may be arrested by any constable, without any warrant, and on the complaint of the principal or other person in charge of such school, or of any trustee of the same, upon conviction thereof before any District Magistrate, may be punished by fine not to exceed two hundred dollars, or by imprisonment at hard labor not to exceed six months, or both, at the discretion of the Magistrate. Nothing herein shall be construed to preclude the punishment of the offender for any other offense committed on such premises, nor of the right of action for civil damages.

## NOTE TO CHAPTER 36.

§§324-335 are P. C. Ch. 36 §§1-12. §§336-363 are S. L. 1886, Ch. 65. §364 is S. L. 1884, Ch. 47. §§365-368 are S. L. 1884, Ch. 49. §369 is S. L. 1882, Ch. 37, C. L. p. 687.

Cases in Hawaiian Reports: *King v. Cornwell*, 3 Haw. 154; *King v. Nawahine*, 3 Haw. 371; *King v. Kekaula*, 3 Haw. 378; *King v. Grieve*, 6 Haw. 740; *P. G. v. Wery*, 9 Haw. 228.

## CHAPTER 37.

## VAGRANTS—DISORDERLY PERSONS.

§370. Any common prostitute, or any person who is lewd, wanton or lascivious in speech or behavior, or any person who has no visible lawful means or insufficient lawful means of support, or who wanders abroad or places himself in any public place to beg alms, or causes any child so to do; or who solicits or collects alms or contributions under any false pretense; or who practices hoopioio, hoounauna, hoomanamana, anaana or pretends to have the power of praying persons to death; or who pretends to tell fortunes for money or other reward; or who has in his possession without lawful excuse (the proof of which excuse shall be upon such person) any false or skeleton key or any implement of house-breaking; or who is found by night dressed or disguised with a felonious intent; or who is found by night without lawful excuse (the proof of which excuse shall be upon such person), in or upon any dwelling-house or other buildings or any enclosed yard, or on board any vessel, or who is a dangerous or disorderly person by reason of his being a rioter, disturber of the peace, going offensively armed, uttering menaces or threatening speeches, or otherwise shall be punished by imprisonment at hard labor not more than six months.

§371. Any idle or disorderly person or vagrant who shall create disturbance of the peace or shall incite others to create disturbance of the peace, or riot, or shall instigate others to gamble or drunkenness, is guilty of a misdemeanor, and may upon the complaint of the Attorney-General or his deputy, be arrested and brought before one of the Justices of the Supreme

Court, and there summarily examined. If upon such examination the Justice shall find that the person so brought before him is guilty of such misdemeanor, such person shall be punished by expulsion from the Republic.

§372. Any person against whom sentence of expulsion has been rendered who shall remain in or return to the Republic, unless such person shall have been by the President pardoned, shall be imprisoned with hard labor not exceeding five years.

NOTE TO CHAPTER 37.

§370 is S. L. 1896, Act 36 §§371-372 are S. L. 1890, Ch. 63. §§1-2. (§3 repealed S. L. 1892, Ch. 94.)

## CHAPTER 38.

## RIOTS AND UNLAWFUL ASSEMBLIES.

§373. Where three or more persons are, of their own authority, assembled together with disturbance, tumult and violence, and striking terror or tending to strike terror into others, such meeting is an unlawful assembly, within the meaning of the provisions of this chapter.

§374. A riot is where three or more being in unlawful assembly join in doing or actually beginning to do an act, with tumult and violence, and striking terror, or tending to strike terror into others.

§375. Menacing language, or gestures, or show of weapons or other signs or demonstrations tending to excite terror in others, are sufficient violence to characterize an unlawful assembly or riot.

§376. Concurrence in an intent of tumult and violence, and in any violent tumultuous act, tending to strike terror into others, is a sufficient joining in intent to constitute a riot, though the parties concerned did not previously concur in intending the act. For example, where persons present at a public performance concur in the intent to disturb the same by tumult and violence, tending to strike terror; or concur in one or more acts of tumult or violence tending to strike terror, done by any of the assembly.

§377. It is not requisite in order to constitute an unlawful assembly or riot, that persons should have come together with a



common or unlawful intent, or in any unlawful manner; or that the object of the meeting, or the act done or intended, should of itself be unlawful. The tumult and violence tending to excite terror, characterize the offense, though the persons may have assembled in a lawful manner, and though the object of the meeting, if legally pursued, or the act done or intended, if performed in a proper manner, would be lawful.

§378. Persons present at a riot or unlawful assembly, and promoting the same, or aiding, abetting, encouraging or countenancing the parties concerned therein by words, signs, acts or otherwise, are themselves parties thereto and principals therein.

§379. In case of an unlawful assembly being by proclamation or otherwise ordered to disperse by any one having legal authority to disperse the same, any one voluntarily remaining in the assembly after notice of such order, except for keeping the peace, is thereby a party concerned in such unlawful assembly.

§380. Every person present in an unlawful assembly is presumed to have notice of an order given by lawful authority in lawful manner for the same to disperse.

§381. Whoever is guilty of a riot or unlawful assembly, having for its object the destruction or injury of any house, building, bridge, wharf, or other erection or structure; or the destruction or injury of any ship or vessel, or the furniture, apparel or cargo thereof, shall be punished by imprisonment at hard labor not more than two years, or by fine not exceeding five hundred dollars; and shall also be answerable to any person injured to the full amount of his damage.

§382. Whoever is guilty of being a party concerned in a riot or unlawful assembly endangering the life, limb, health or liberty of any person, or in any other riot or unlawful assembly not of the description designated in the above section, shall be

punished by imprisonment at hard labor not more than five years, or by fine not exceeding one thousand dollars.

§383. In case of any riot or unlawful assembly in any town, village or district, it shall be the duty of the Governor, if any be resident there, and of every District Magistrate there resident, and also of the Marshal, Sheriff of the Island, and his deputies, and of the Prefect of Police for said town, village or district to go among the persons so assembled, or as near to them as may be with safety, and in the name of the Republic to command all the persons so assembled immediately and peaceably to disperse; and if the persons shall not thereupon so disperse, it shall be the duty of each of said officers to command the assistance of all persons present, in seizing, arresting and securing in custody the persons so unlawfully assembled, so that they may be proceeded with for their offense according to law.

§384. If any persons riotously or unlawfully assembled, who have been commanded to disperse by the Governor, Marshal, Sheriff, Deputy Sheriff, Prefect of Police, or District Magistrate, shall refuse or neglect to disperse without unnecessary delay, any two of such officers may require the aid of a sufficient number of persons in arms, or otherwise, as may be necessary, and shall proceed in such manner as in their judgment shall be expedient forthwith to disperse and suppress such unlawful, riotous, or tumultuous assembly, and seize and secure the persons composing the same, so that they may be proceeded with according to law.

§385. Whenever an armed force shall be called out for the purpose of suppressing any tumult or riot or unlawful assembly, or to disperse any body of riotous men, such armed force shall obey such orders for suppressing the riot or tumult or for dispersing and arresting the persons who are committing any of the said offenses, as they may receive from the Governor, Marshal, Sheriff of the Island, or Prefect of Police, and also such

further orders as they may receive after they shall arrive at the place of such unlawful, riotous or tumultuous assembly, as may be given by any two of the Magistrates or officers mentioned in the preceding section.

§386. If by reason of the efforts made by any two or more of said Magistrates or officers, or by their direction, to disperse such unlawful, riotous or tumultuous assembly, or to seize and secure the persons composing the same, who have refused to disperse, any such person or any other person then present, as spectators or otherwise, shall be killed or wounded, the said Magistrates and officers and all persons acting by their order or under their direction shall be held guiltless and justified by law, and if any of said Magistrates or officers, or any person acting under their authority or by their direction shall be killed or wounded, all the persons so at the time unlawfully, riotously or tumultuously assembled, and all other persons who, when commanded or required, shall have refused to aid and assist the said Magistrate or officers, shall be held answerable therefor.

NOTE TO CHAPTER 38.

§§373-386 are P. C. Ch. 38, unaltered.

## CHAPTER 39.

## GAMBLING.

§387. Every person who contrives, prepares, sets up, draws, maintains or conducts, or assists in maintaining or conducting any lottery is guilty of a misdemeanor.

§388. A lottery is any scheme for the disposal or distribution of property by chance among persons who have paid or promised to pay any valuable consideration for the chance of obtaining such property, or a portion of it, or for any share or any interest in such property upon any agreement, understanding or expectation that it is to be distributed or disposed of by lot or chance, whether called a lottery, raffle, che fa, pakapio, gift enterprise or by whatever name the same may be known.

§389. Every person who sells or buys, gives or receives, has in possession or in any manner whatever deals with any ticket, chance, share or interest, or any paper, certificate or instrument purporting or understood to be or to represent any ticket, chance, share or interest in or depending upon the event of any lottery, is guilty of a misdemeanor.

§390. All moneys or property offered for sale or distribution in violation of any of the provisions of Sections 387 to 398 are forfeited to the Government and may be recovered by information filed or by action brought by the Attorney-General or his authorized representative.

§391. Every person who deals, plays, or carries on, opens or causes to be opened, or who conducts either as owner or

employee, whether for hire or not, any game of faro, monte, roulette, tan, fan tan, or any banking or percentage game played with cards, dice or any devices for money, checks, credit or any representative of value or any other game in which money or anything of value is lost or won, and every person who plays or bets at or against any of said prohibited game or games, and every person present where such game or games are being played or carried on, is guilty of a misdemeanor.

§392. Every person who by the game of "three card monte," "shell game" or any other game, device, sleight of hand, pretention to fortune telling, trick or other means whatever by use of cards or other implements or instruments, or while betting on sides or hands of any such play or game, fraudulently obtains from another person money or anything of value is guilty of a misdemeanor.

§393. Every person duly summoned as a witness for the prosecution on any proceeding had under Sections 387 to 398 who neglects or refuses to attend as required is guilty of a misdemeanor.

§394. No person otherwise competent as a witness is disqualified from testifying as such concerning any offense committed under Sections 387 to 398 on the grounds that such testimony might criminate himself, but no prosecution can afterwards be had against him for any such offense concerning which he has testified.

§395. Every person who lets or permits to be used any building or vessel, or any portion thereof, knowing that it is to be used for setting up, managing or drawing any lottery, or for the purpose of selling or disposing of lottery tickets, chance, share or interest in or depending upon the event of any lottery or who knowingly permits any game or games prohibited by Sections 387 to 398 to be played, conducted or dealt in any

K

building or vessel owned or rented by such person in whole or in part, is guilty of a misdemeanor.

§396. Every person who bets or gambles upon any horse race, boat race, ball game, bicycle race or any athletic game, sport or contest, in any manner whatsoever, either by risking money or any other thing of value, is guilty of a misdemeanor.

§397. Every person guilty of a misdemeanor as provided in Sections 387 to 398 shall be punishable by a fine of not more than one thousand dollars, or imprisonment at hard labor not exceeding one year.

§398. District Magistrates shall have jurisdiction to try and determine all cases arising under Sections 387 to 398.

#### CIVIL REMEDIES.

§399. Whoever shall by playing at cards or any other game, or by betting on the sides or hands of such as do play, lose any sum of money, or thing of value, and shall pay or deliver the same or any part thereof, may sue for and recover the money or value of the thing so lost and paid or delivered, from the winner thereof.

§400. In case the person so losing such money or any thing of value shall not within three months after such loss, in good faith and without collusion, prosecute with effect and without unreasonable delay for such money or other thing of value, it shall be lawful for any Constable or other officer or person to sue for and recover, treble the value of such money or other thing, with full costs of suit, the one-half of which shall go to the person so prosecuting, and the other half to the Government for the use of common schools.

§401. All notes, bills, bonds, mortgages or other securities or conveyances whatever, in which the whole or any part of the

consideration shall be for any money or other thing of value won by playing at cards, or any other game, or by betting on the sides or hands of any person gaming, or for reimbursing or repaying any money, knowingly lent or advanced for any gaming or betting, or lent and advanced at the time and place of such gaming and betting, to any person so gaming and betting shall be void and of no effect, as between the parties to the same, and as to all persons, except such as shall hold or claim under them, in good faith and without notice of the illegality of the consideration of such contract or conveyance, and whenever any mortgage or other conveyance of lands shall be adjudged void, under the provisions of this section, such lands shall enure to the sole use of and benefit of such person as would be then entitled thereto, if the mortgagor or grantor were naturally dead; and all grants or conveyances for preventing such lands from coming to or devolving upon the person to whose use and benefit the said lands would so enure, shall be deemed fraudulent and of no effect.

§402. In every suit brought to recover any money or other thing of value, as provided in Section 399 of this chapter, both the plaintiff and defendant shall be competent witnesses; and no person other than the parties shall be excused from testifying, touching any offense committed against any of the foregoing provisions relating to gaming, by reason of his having played, betted or staked at any game; but the testimony of any such person shall not be used against him in any suit or prosecution authorized by any of the foregoing provisions.

#### NOTE TO CHAPTER 39.

§§387-395, 397-398 are P. G. Act 21. §396 is S. L. 1896, Act 16. §§399-402 are P. C. Ch. 39 §§5-8.

Cases in Hawaiian Reports: King v. Ah Lee, 5 Haw. 545; King v. Yeong Ting, 6 Haw. 576; In re Ah Mook, 6 Haw. 664; Rex v. Lum Hung, 7 Haw. 344; R. v. Kaka, 8 Haw. 305; Govt. v. Ah Hum, 9 Haw. 97; Govt. v. Aloiau, 9 Haw. 400; R. v. Alani, 8 Haw. 533.

## CHAPTER 40.

## NIGHT.

§403. All loud noise by night is taboo. Whoever after sunset shall by hallooing, singing in the streets, or in any other way make any disturbing or disorderly noise in any village, town or port of this Republic, without justifiable cause for so doing, shall be liable to summary arrest and imprisonment by any Constable or Police Officer, and upon conviction be punished by a fine not exceeding ten dollars.

§404. All keepers of coffee, victualing, liquor and billiard saloons, and bowling alleys, and also sugar mills, are hereby strictly forbidden to allow any school children, boys, or girls, to remain upon their premises any time between the hours of sunset and sunrise, unless the same be accompanied by their parents or guardians. Any keeper of a coffee, victualing, liquor or billiard saloon or bowling alley, upon whose premises any school child, boy or girl, may be found between the hours above named, unless the same be accompanied by its parent or guardian, shall be deemed guilty of an offense, and shall be punished by a fine, of not more than twenty dollars, upon conviction before any District Magistrate, and his license may be revoked by the Minister of Interior, in his discretion.

§405. If any keeper or keepers of any of the public places enumerated in Section 404, shall find difficulty in clearing their premises of school children, the same may call in the assistance of the Police or Constables, who shall first order all such school children to return to their homes; and, if such order be not obeyed by the said children, the Police or Constables shall pro-



ceed to apprehend all such children who shall not have proceeded to their homes, and cause them to be detained in the lock-up over night, to be brought before the District Magistrate on the following morning, to be punished according to the provisions of the law relating to truancy.

#### CURFEW LAW.

§406. Any child under fifteen years of age, who, except in case of necessity, shall go or remain on any public street or highway after nine o'clock in the evening and before four o'clock in the morning, unaccompanied by an adult person, shall be punished by a fine of not more than five dollars or by imprisonment not exceeding fourteen days.

§407. Any parent or guardian, having the care, custody and control of a child under fifteen years of age, who, except in case of necessity, shall knowingly and voluntarily suffer or permit such child to go or remain on any public street or highway, after nine o'clock in the evening and before four o'clock in the morning, unaccompanied by an adult person, shall be punished by a fine of not more than ten dollars or by imprisonment not exceeding twenty days.

#### NOTE TO CHAPTER 40.

§403 is S. L. 1876, Ch. 15, C. L. p. 575. §§404-405 are S. L. 1870, Ch. 23, C. L. p. 542. §§406-407 are S. L. 1896, Act 29.

## CHAPTER 41.

## INTOXICATING LIQUORS.

## PART I.—MANUFACTURE OF SPIRITUOUS LIQUORS.

§408. The Minister of the Interior is hereby authorized to grant to any party or parties applying therefor a license to distill spirituous liquors, subject to the terms, conditions and restrictions hereinafter set forth.

§409. All persons applying for a license under this Act shall, before receiving the same, file a bond with one or more sureties (in form similar to the following), which bond must be approved by the Minister of the Interior:

Know all men by these presents, that we,..... principal, and....., surety are held and firmly bound unto the Minister of the Interior for the use of the Hawaiian Government, in the penal sum of one thousand dollars lawful money, to be levied on our respective joint and several property, in case the conditions hereinafter set forth shall be violated.

For the just and full payment of which we hereby jointly and severally bind ourselves, our heirs, executors, administrators and assigns.

Sealed with our seals and dated this.....day of.....  
A. D. 189..

The condition of the obligation is as follows: That whereas, the above bounden principal has applied for a license to distill spirituous liquors in accordance with the law enacted on the .....day of....., 189.., and has complied with the

requisition of the said law, and has consequently become entitled to a license to distill spirituous liquors in accordance with the statute in such cases made and provided, for the term of one year from date. Now, therefore, if during the continuance of this license the said.....shall not contribute to the violation of any of the laws of this Republic, nor violate any of the conditions of said license, or of this Act, or of any of the rules and regulations published, as hereinafter provided by the Minister of the Interior, then this obligation shall be void; otherwise upon proof being made to the satisfaction of the District Magistrate without the intervention of a jury, the penalty mentioned in his bond shall be forfeited and the license of the said.....so granted shall be void.

Given under our hands and seals the day and year above written.

In the presence of .....  
 .....  
 .....

§410. Such license shall be for one year from its date, and before granting such license the Minister of the Interior shall receive from the licensee the sum of two hundred and fifty dollars as a license fee.

§411. All spirituous liquor manufactured under the provisions of this Act shall be delivered into the charge and keeping of the Custom House authorities, and shall so remain until lawfully withdrawn for domestic consumption or for export, upon a permit of the Collector-General of Customs or his Deputy, and all expenses of storage shall be paid by the owner of such spirituous liquor, in like manner as though the same was of foreign manufacture and had been imported into this Republic.

§412. Spirituous liquor manufactured under the provisions of this Act may be withdrawn from the Custom House upon a permit of the Collector-General of Customs or his Deputy, for

sale and consumption in this Republic, and upon such withdrawal such spirituous liquors shall pay a duty equal to four-fifths the specific duty that is now or may hereafter be levied on spirituous liquors of like strength of alcohol of foreign manufacture imported into this Republic. Such spirituous liquor may be withdrawn in like manner for export without duty, and shall be subject in all other respects to the same surveillance and restrictions to which liquors of foreign manufacture are now or may hereafter be subjected when withdrawn for re-exportation; provided, however, that any methylated alcohol manufactured in this Republic under this Act may be withdrawn for use in this Republic without duty.

§413. The licensee, or some person in his behalf, who has full knowledge of the facts, shall each quarter report to the Minister of the Interior and the Collector-General of Customs the quantity and kind of spirituous liquor manufactured by him; the quantity and kind of such liquor delivered to the Custom House; the quantity and kind of such liquor withdrawn; and whether the same was exported or sold for consumption in this Republic. Such report must be verified by the oath of the party making the same, that such report is true, and any false statement so sworn to shall be deemed perjury.

§414. The said licensee shall not sell spirituous liquors, manufactured by him, for consumption in this Republic in quantities less than ten gallons.

§415. Any person who shall distill spirituous liquors without having a license according to law, shall be punished by a fine of not more than one thousand dollars nor less than one hundred dollars, and by imprisonment at hard labor for not less than three months nor more than one year.

§416. At the time of filing the application mentioned for a license under this Act, the applicant shall furnish to the Min-

ister of the Interior a sworn certificate showing the exact location of the premises in which such spirituous liquors are to be manufactured, together with a description of such premises.

§417. The premises upon which the spirituous liquors are manufactured under the license herein provided for shall at all times be open to free inspection by the Police and Custom House officers.

§418. The Minister of the Interior by and with the consent of the Cabinet may make from time to time such rules and regulations, not inconsistent with this Act, that may be necessary for the protection of the revenue and public good order, which rules and regulations shall be published in a newspaper and shall have the force of law.

§419. Unless herein otherwise provided any violation of the provisions of this Act by the licensee shall subject him or them to a fine of not less than one thousand dollars and the said bond and license shall be forfeited, and the penalty of said bond may be recovered and enforced before a Circuit Judge at Chambers without the intervention of a jury.

§420. Any person, except the licensee, as aforesaid, violating the provisions of this Act shall upon conviction be fined not less than five hundred dollars, unless a different penalty is hereinbefore provided.

§421. The several District Magistrates shall have jurisdiction to hear, determine and pass sentence for all violations of this Act, except in prosecutions for perjury under Section 413.

## PART II.—MANUFACTURE AND SALE OF INTOXICATING LIQUORS.

§422. The following words, unless where the contrary appears from the context, are used in this Act with meaning hereby assigned to them respectively:

“Spirituous Liquors,” shall mean any wines, spirits, ale, cider, perry, beer or other fermented or distilled liquors and all liquor of an intoxicating nature. “Sunday” shall mean the time between 11 of the clock on the evening of Saturday and 5 of the clock on the morning of the succeeding Monday.

But nothing in this Act shall apply to any person selling any spirituous or distilled perfume *bona fide* as perfumery; nor to any duly qualified and licensed physician or surgeon, chemist or druggist who may administer or sell any spirituous liquors for medicinal purposes.

§423. The licenses issued under this Act shall be signed by the Minister of the Interior, and sealed with the seal of his department, and shall not be transferable except as hereinafter provided; and shall be in force for one year from the date of issue.

• §424. Whoever shall manufacture for sale any intoxicating drink or substance in this Republic, shall be liable to a fine not exceeding five hundred dollars, and in default of payment of such fine shall be imprisoned at hard labor for a term not exceeding two years.

§425. Whoever shall distill any spirituous liquor in this Republic (except under a license issued pursuant to an Act approved on the 13th day of July, A. D. 1874, entitled “An Act authorizing the Minister of the Interior to grant to owners of mills for the manufacture of sugar, licenses to distill spirituous liquors,”) shall be liable to a fine of not less than fifty dollars, nor more than one thousand dollars, and in default of payment of such fine shall be imprisoned at hard labor for any term not exceeding two years. The possession of such distilled liquor shall be *prima facie* evidence of the distillation thereof, and it shall be incumbent on the party or parties having possession thereof, to prove their innocence of distilling the same.

§426. All spirituous liquors imported under the name of perfumery or preserved fruits with the intention of evading the laws relating to duties shall be liable to seizure, condemnation and sale for the benefit of the Public Treasury.

§427. All stills, distilling apparatus or other articles in use, except as provided in Section 425, or having been used in distilling spirituous liquor or other intoxicating drinks or substances within this Republic, and also all spirituous liquors and all other intoxicating drinks or substances manufactured for sale within this Republic shall be forfeited to the Hawaiian Government, and may be seized and taken possession of by the Marshal, Deputy Marshal, Sheriffs or their deputies, or by any Constable; and all articles so seized by any other officer than the Marshal, Deputy Marshal or Sheriffs, shall without delay be delivered into the care of the Marshal, Deputy Marshal or Sheriff nearest the place of seizure, who shall cause a notice of such seizure to be published in some newspaper, and unless the owner or some person authorized to claim possession thereof shall, within twenty days from the day of such notice of seizure, file with the officer having the same in possession a written claim to such property so seized, it shall be held to be condemned as forfeited to the Hawaiian Government; and in all cases where the owner or some person claiming the right of possession shall file a written claim as herein provided, it shall be the duty of the Marshal, Deputy Marshal or Sheriff having the property in possession, to furnish to the Attorney-General a written statement of the facts, who is hereby authorized and required to take legal measures to have the question determined whether the property seized has been forfeited in accordance with the provisions of this section.

§428. The Minister of the Interior shall have power to grant a wholesale vending license for spirituous liquors to any person having a license to sell goods, wares and merchandise at wholesale, applying therefor in writing, and stating in his appli-

ation the name the vendor and where the applicant intends to establish his place of business.

§429. The wholesale vending of spirituous liquors shall consist of selling the same in quantities not less than the packages originally imported and in no other manner. Provided, that no part thereof shall be drank or used on the premises where they are sold or in any other house or premises contiguous thereto, procured or rented for that purpose by the party holding such license, or any other person or persons whatsoever through his agency, under the penalty of forfeiting his license and incurring the penalties of the law and his bond.

§430. Before granting such wholesale license to vend spirituous liquors, the applicant shall pay for the use of the Hawaiian Government, five hundred dollars, and give a bond to the Minister of the Interior in the penalty of one thousand dollars, with at least one sufficient surety to be approved by said Minister.

§431. The Minister of the Interior shall have power in like manner to grant licenses to be called "Dealers' Licenses" to any person for the vending of wine, ale, and other spirituous liquors, upon such person applying therefor in writing, and stating in his application the name of the vendor and where the applicant intends to establish his place of business.

§432. Any person having obtained a license in accordance with the preceding section may sell ardent spirits in quantities not less than one gallon, wines, ales and other liquors containing alcohol in quantities not less than one dozen bottles. Provided that the same and no part thereof shall be drank or used on the premises where they are sold or in other house or premises contiguous thereto, procured or rented for that purpose by the party holding such license or any other person or persons whatsoever through his agency, under the penalty of forfeiting his license and incurring the penalty of the law and his bond.



§433. Before granting such license to any person to vend wine, ale and other spirituous liquors as prescribed in Sections 431 and 432, the applicant shall pay to the Minister of the Interior for the use of the Exchequer the sum of five hundred dollars, and give a bond to the Minister of the Interior in the penalty of one thousand dollars, with at least one surety to be approved by the said Minister.

§434. The Minister of the Interior shall have the power to grant licenses to retail spirituous liquors, upon application in writing, stating the name of the vendor and where the applicant intends to establish his place of business in each district.

§435. Before the granting of a retail license to vend spirituous liquors, as contemplated in the preceding section, the applicant shall pay to the Minister of the Interior, for the use of the Hawaiian Government, the sum of one thousand dollars, and shall give a bond in the sum of one thousand dollars, with one sufficient surety to be approved by said Minister.

§436. Such last mentioned license shall authorize the licensee to sell and dispose of any spirituous liquors, by the glass or bottle, on the premises therein specified, between the hours of half-past five o'clock in the morning and half-past eleven o'clock at night, on every day except Sunday.

§437. It shall not be lawful for any retailer of spirituous liquors to sell the same to minors or women, or to any person or persons who may be habitually intemperate.

§438. The Minister of the Interior, by and with the consent of the President, shall have the power, and it shall be his duty to fix the limits or boundaries within which those obtaining a license contemplated by this Act shall carry on and transact such business, and shall cause public notice to be given of the same, and he shall designate in the license the house or store

or place in which such licensed person shall be authorized to pursue his business, and the license so granted shall not be transferable except as hereinafter provided, or held to authorize such business to be carried on by any person or persons or at any other place than such as may be designated in the license. Provided that until the President shall recommend an alteration in the limits within which spirituous liquors may now be sold, such limits shall apply to licenses issued under this Act. And provided, that the President may authorize the Minister of the Interior to grant and issue licenses for the vending of spirituous liquors at retail outside of the limits of the city of Honolulu, upon and subject to such terms and conditions as the President may think proper, provided that the license fee shall be the same as provided by Section 421.

§439. The sale and vending of spirituous liquors shall be regulated as to the time, place, quantity, and manner in which the licensee is by such license authorized to sell and dispose of such liquors, by the terms of the license consistently with existing statutes, and any person who shall sell, or cause to be sold, any spirituous liquors, except as regulated by his license or by law, shall, for the first offense, be fined two hundred and fifty dollars, and for the second offense, be fined five hundred dollars, and forfeit his license; provided, that in the event of the destruction of the premises wherein such traffic is carried on, the Minister of Interior may, at his discretion, give such licensee permission in writing to carry on such traffic, for the remainder of the time for which such license was granted, on premises other than those mentioned in the license.

§440. All persons applying for a license under the provisions of this Act shall, before receiving the same, file a bond (in form similar to the following), the same being always subject to the approval of the Minister of the Interior:

Know all men by these presents, that we . . . . . principal, and . . . . . surety, are held and firmly bound unto the Minis-

ter of the Interior, for the use of the Hawaiian Government, in the penal sum of . . . . .dollars lawful money, to be levied on our respective joint and several property in case the conditions hereinafter set forth shall be violated.

For the just and full payment of which we hereby jointly and severally bind ourselves, our heirs, our executors, administrators and assigns.

Sealed with our seals and dated this . . . . .day of . . . . .18..

The condition of this obligation is as follows: That whereas the above bounden . . . . .has this day applied for a license to vend spirituous liquors in accordance with the law approved on the . . . . .day of . . . . .18., entitled "An Act to regulate the sale of Spirituous Liquors," and has complied with all the requisitions of law, and has consequently been granted a license to vend spirituous liquors in accordance with such law for the term of one year from date. Now, therefore, if during the continuance of this license the said . . . . .shall not be convicted of felony, perjury or other infamous offense, or of any offense against or violation of the revenue laws, or of any other offense under the said statute involving a forfeiture of the said license, a copy of which is hereto annexed, then this obligation shall be void. Otherwise upon proof being made to the satisfaction of a District or Police Magistrate, without the intervention of a jury the penalty mentioned in the bond shall be forfeited, and the license of the said . . . . .this day granted shall be void.

Given under our hands and seals the day and year above written.

In the presence of . . . . .  
 . . . . .

§441. Upon the violation of any of the conditions of his bond by any licensed dealer in spirituous liquors, it shall be the duty of the Minister of the Interior to pass said bond to the Attorney-General of the Republic for enforcement against the parties thereto, both principal and surety, with such information as has come to his knowledge in regard to any violation.

§442. The Minister of the Interior shall keep in a book of licenses, the names of all licensed vendors of spirituous liquors throughout the Republic, their respective places of abode, the character of the license granted to them, and the amount of license money paid by each, together with the date of such license.

§443. It shall not be lawful to issue a license for the retailing of spirituous liquors for any house or premises where any other business except that of victualing housekeeper under a license to such retailer is carried on, or that has any communication with any other house or premises where any business (except as aforesaid) is carried on.

§444. Any person, other than the agent or servant of a person thereto licensed, who shall sell or dispose of any spirituous liquors within this Republic, or shall cause or authorize therein any spirituous liquors to be sold or disposed by any person employed, hired or engaged for such purpose, without being thereto authorized by license as in this Act provided, shall, for the first offense, be fined not less than one hundred dollars nor more than five hundred dollars, and for every subsequent offense shall be imprisoned for not less than three months nor more than six months at hard labor and shall also be fined not less than five hundred dollars nor more than one thousand dollars.

§445. If any holder of a license shall suffer any person to play any unlawful game or sport within the said licensed premises or the appurtenances thereto, or suffer any one to play at billiards or any other game in his house or premises on a Sunday, or permit prostitutes or drunken or disorderly persons to be on his premises, he shall forfeit and pay for every such offense any sum not exceeding one hundred dollars.

§446. Any holder of a license who shall sell or retail any spirituous liquor or permit or suffer the same to be drank in his

house or premises on Sundays, shall be liable to a penalty not exceeding two hundred dollars. But this section shall not apply to the ordinary supplies furnished to *bona fide* boarders and lodgers in the house or premises.

§447. If any person holding a license under this Act shall be convicted twice within a period of twelve consecutive months of any offense against the provisions of this Act the Justice before whom such person has been convicted, shall by an order under his hand in the form in the schedule declare such license to be forfeited, and the same shall thereupon be void, and it shall be the duty of the Attorney-General to sue for and enforce the penalty of the bond given by such licensee, and such licensee shall be and be deemed incapable of ever again holding a license under this Act.

#### SCHEDULE.

Be it remembered that on the . . . . day of . . . . ., A. D. . . . ., complaint was made before . . . . . (District or Police Justice) of . . . . . A. B. being the holder of a . . . . . license, for that (here set out the acts which have caused the forfeiture) or proof was made to me that A. B. being the holder of a . . . . . license, was twice within a period of twelve consecutive months convicted under the provisions of an Act entitled "An Act to Regulate the sale of Spirituous Liquors," (that is to say) on the . . . . . day of . . . . . A. D. . . . . under the . . . . . section of the said Act, and on the . . . . . day of . . . . . under the . . . . . section of the said Act. Now I do therefore adjudge that the said license of the said . . . . . shall be forfeited.

Given under my hand this . . . . . day of . . . . . A. D. . . . .

.....

§448. No holder of a license shall either in his house or any of the appurtenances thereto, supply any spirituous liquor to any person in a state of intoxication, under a penalty for each

L

offense of any sum not less than fifty nor more than two hundred and fifty dollars. And if any such intoxicated person remain more than three hours on such premises the holder of such license shall in each such case be liable to the same penalty.

§449. No holder of a retail license shall recover any debt or demand on account of any spirituous liquor supplied by him to any person for consumption on the premises, but the holder of such license may sue for and recover the value of any spirituous liquor supplied with meals to any person *bona fide* lodging or boarding in the house.

§450. If any holder of a retail license shall receive in payment or ask a pledge for any spirituous liquor or entertainment supplied in or from such licensed house anything except current money or checks on bankers, or orders for payment of money, he shall for each such offense pay a penalty not exceeding fifty dollars.

§451. If any holder of a license shall be convicted of felony, perjury or of any infamous offense, or of any offense against the revenue laws, or if holding a retail license, he shall permit any person to manage, superintend or conduct the business of such during his absence for a longer period than forty-two consecutive days in any one year without the previous consent in writing of the Minister of the Interior, or shall allow such house to become ruinous or dilapidated, then upon complaint thereof and proof of any of the facts aforesaid to the satisfaction of any District Magistrate, such Magistrate shall, by an order under his hand in the form of the second schedule, declare such license to be forfeited, and the same thereupon shall cease. But if such house shall have become ruinous or dilapidated by reason of fire, tempest or any other cause beyond the control of the licensee, the license shall not be forfeited until a reasonable time has elapsed for the reinstatement of such house.

§452. If any licensed person shall sell or offer for sale any adulterated spirituous liquor, he shall forfeit and pay for every such offense any sum not less than one hundred dollars, nor more than five hundred dollars. And in order to analyze such spirituous liquor, any Justice may on complaint on oath made to him that any such spirituous liquor is or is believed by such complainant to be adulterated, and on the deposit by such complainant of the sum of five dollars to defray the expense of such analysis authorize the seizure of such suspected spirituous liquor, and cause the same to be analyzed by some competent person, and the expenses of such analysis shall be a portion of the costs which such Justice shall order to be paid by the person convicted.

§453. Any District Magistrate, the Marshal, his Deputy, or any Sheriff, Deputy Sheriff or Constable may, without warrant, seize and take away all such spirituous liquor as he shall have reasonable cause to suspect is carried about for sale or to be exposed or offered for sale in any highway or foot path, or in any booth, tent, store or shed, or in any other place whatever, by any person not licensed to sell the same, and all vessels and utensils used for containing, drinking or measuring the same. And such Magistrate, on proof of such offense may convict any person so offending and may thereupon sentence such offender to pay a fine of not more than two hundred and fifty dollars, and not less than fifty dollars, and to imprisonment at hard labor for any term not more than six months and not less than one month, and one-half of the fine shall be paid to the party who gave the information which led to such conviction, and such Magistrate shall upon such conviction adjudge such spirituous liquor, and the vessels and utensils used for containing, drinking, or measuring the same; to be forfeited and may direct the same to be sold on account of the Hawaiian Government. Provided, however, that in all cases where such liquor is seized while being carried on the way from one place to another, the burden of proving that such liquor was not carried for sale or

to be exposed or offered for sale, shall be upon the person or persons owning or claiming the same.

§454. Any person not the holder of a license keeping up any sign, writing, painting or other mark, in or near his house or premises, or having his house or any part thereof fitted up with a bar, or other place containing bottles or casks displayed so as to induce a reasonable belief that spirituous liquor is sold or served in such house or premises, or there being on such premises more spirituous liquor than is reasonably required for the use of the persons residing therein, shall be deemed *prima facie* evidence of the unlawful sale of spirituous liquor by such person.

§455. Upon information on oath before any District Magistrate by any person, that he believes that spirituous liquor is sold by any person without a license, or contrary to the provisions of this Act, in any house or place, such Justice shall grant his warrant to any constable to enter and search such house or other place and seize all such spirituous liquor as aforesaid as he shall then and there find, and any vessel or vessels containing such spirituous liquor, and detain the same until the owner thereof shall appear before such Justice to claim such spirituous liquor or vessels, and shall satisfy such Justice how and wherefore such owner became possessed of the same, or if such person after being summoned shall not appear, and if it shall appear to the said Justice after due inquiry that such spirituous liquor was in the said house or place for the purpose of being illegally sold or disposed of, then he shall adjudge such spirituous liquor and vessels to be forfeited and sold, and the proceeds after paying the expenses of such sale shall be appropriated in like manner as penalties under this Act.

§456. In all proceedings against any persons for selling or allowing to be sold any spirituous liquor without a license, such person shall be deemed to be unlicensed, unless he shall at the hearing of the case produce his license.



§457. The delivery of any spirituous liquor either by the owner or occupier, or by his or her servant or other person in the house or place, shall be deemed to be sufficient *prima facie* evidence of money or other consideration being given for such spirituous liquor, so as to support a conviction, unless proof to the contrary be given to the satisfaction of such Justice.

§458. Every husband, wife, child, parent, guardian, employer or other person who shall be injured in person or property or means of support by any intoxicated person, or in consequence of the intoxication, habitual or otherwise, of any person, or being himself or herself intoxicated, shall be thus injured in consequence of such intoxication, shall have a right of action in his or her own name, severally or jointly, against any licensed dealer in spirituous or intoxicating liquors, who shall by selling or giving spirituous or intoxicating liquors, have caused the intoxication in whole or in part of such person or persons, for all damages sustained and for exemplary damages. And a married woman shall have the same right to bring suits under this Act, and to control the same and the amount recovered as a *femme sole*. And all damages recovered by a minor under this Act shall be paid either to such minor or to his or her parent, guardian or next friend as the Court shall direct.

§459. All suits for damages under the last preceding section may be by any appropriate action in any of the Courts of the Republic having competent jurisdiction.

§460. No spirituous liquor shall be sold by auction upon any house or premises not licensed for the sale of spirituous liquors under this Act. Any auctioneer or other person violating the provisions of this section shall be subject to the penalty hereinbefore prescribed for selling spirituous liquors without a license. Provided that nothing herein contained shall apply to the sale by auction of spirituous liquors in bond by sample, if the owner thereof shall be duly licensed for the sale of such spirit-

uous liquors, and provided also that the Minister of the Interior may in his discretion authorize any auctioneer to sell any such spirituous liquors by auction, when he shall be satisfied that the said liquors are the property of a private person, and are not sold for profit or by way of trade.

§461. Every person who being intoxicated shall enter any premises licensed for the sale of spirituous liquors, or being intoxicated upon said premises, shall not leave the same when requested by the licensee or by any person in his employ, may be arrested by any constable, and shall on conviction pay a fine of ten dollars.

§462. Every person who shall be found drinking on any licensed premises during prohibited hours or on Sunday, shall be liable to the same penalty as the licensee is subject to for keeping open his licensed house at times not allowed by his license, and such persons may be arrested by any constable or peace officer.

§463. Any person who shall import into this Republic any spirituous liquors, unless holding a license under this Act, or unless the same is for his own private use, shall on conviction before any District Magistrate be subject to a fine of five hundred dollars, and in default of payment may be imprisoned at hard labor for any term not exceeding two years.

§464. If any agent, servant or employee of the holder of a license to retail spirituous liquors shall do or commit any act now prohibited by law from being done or committed by the holder of such license, such agent, servant or employee shall be liable to a penalty of two hundred and fifty dollars for the first offense, and not less than two hundred and fifty dollars nor more than five hundred dollars for the second offense; and shall thereafter be and be deemed incapable of ever again acting as an agent, servant or employee of the holder of a license to retail

spirituous liquors, and any such holder who shall knowingly employ any person convicted of a second offense under this section shall be deemed to have forfeited his license.

§465. If the agent, servant or employee of the holder of a license to retail spirituous liquors shall be convicted of a second offense under this Act or other enactment relating to the sale of spirituous liquors, such holder shall be deemed to have forfeited his license, provided the first offense of which such agent, servant or employee was convicted shall also have been committed while in the employ of such holder.

#### PART III.—ILLCIT TRAFFIC.

§466. It shall be unlawful from and after the passage of this Act, for any person or persons conducting or carrying on any business or trade for the carrying on of which a license is required by the Government, or for any other person except druggists, physicians and licensed dealers in spirituous liquors, to have or keep or permit on or about the premises where such business or any portion thereof is carried on, or where any portion of the stock used or kept for such business is stored, any spirituous liquors, except for the use of those engaged on the premises, and which shall not exceed at any time one-half gallon of wine or beer, or one quart of ardent spirits. The definition of the term spirituous liquor herein shall be the same as is contained in Section 422.

§467. It shall be unlawful for any licensed peddler, trader, or store-keeper, or any book-keeper, clerk or employee of such peddler, trader or store-keeper, except such as are licensed to deal in spirituous liquor, to forward to any other person any order for the forwarding, sale or purchase of spirituous liquors, with intent that such spirituous liquors shall be forwarded, sold or furnished either directly or indirectly by the person or persons to whom such order is sent or given, to or for the use of any person or

persons other than the person or persons who shall forward such order.

§468. It shall be unlawful for any person, not being a licensed dealer in spirituous liquors, or a common carrier of goods, to receive into, or have in his possession, custody or control, at any point outside the City of Honolulu, any spirituous liquor with intent to sell, transfer or dispose of such spirituous liquor or any part thereof to any other person or persons.

§469. It shall be unlawful for any person, whether he be a licensed dealer in spirituous liquors or not, to bill, ship or send by or upon, or to place or cause to be placed on board of any steamer, ship or vessel engaged in the carrying trade between any of the ports of this Republic any spirituous liquors with the intent that the same shall be conveyed or carried by or upon such steamer, ship or vessel, and delivered to some third person or persons, except such spirituous liquor be plainly labelled with the name and quantity thereof, which label shall be written or printed in either the Hawaiian or the English language, and shall contain the names of the shipper and the consignee of such liquor respectively.

§470. It shall be lawful for any police officer to seize and detain any spirituous liquor held by any person in contravention of Sections 466, 468 or 469, and any liquors so seized may be declared by the Court before which such case shall be brought, to be forfeited to the use of the Hawaiian Government; all liquors so forfeited shall be sold, and the proceeds thereof, less expenses of seizure and sale, shall be returned by the Marshal to the Treasury as a Government realization.

§471. Any person who shall violate any provision of Sections 466 to 470 inclusive shall, upon each conviction thereof before any District Magistrate, be fined a sum not less than twenty-five dollars nor more than two hundred dollars.

## PART IV.—BREWING OF MALT LIQUORS.

§472. The Minister of Interior is hereby authorized to issue a license for the brewing of malt liquors in the District of Honolulu, on the Island of Oahu, for a term of fifteen years; provided, however, that no sales of such malt liquors shall be made by the owner of the license in less quantity than five gallons in bulk, or if in bottles, not less than two dozen quart bottles, or four dozen pint bottles.

§473. The owner of the license shall upon the receipt thereof pay to the Minister of Interior one hundred and fifty dollars for each year, and shall pay a special tax of five cents a gallon for all malt liquors made and sold by him.

§474. The Minister of Finance is hereby authorized to remit import duties upon such articles used for the purpose of brewing malt liquors as may be admitted free of import duties without conflicting with existing treaties.

§475. The owner of the license shall keep correct accounts of all malt liquors made by him, which accounts shall at all times during business hours be open to the inspection of the Minister of Interior, and shall make at the end of each quarter to the Minister of Interior a sworn report of the quantity of malt liquor sold by him during such quarter, and shall thereupon pay the special tax provided by Section 473, on account of the liquors sold during such quarter.

§476. Any person licensed to brew malt liquors under this Act, who shall distill alcoholic liquors of any kind, or who shall in the manufacture of malt liquors make use of any deleterious or poisonous drug or substance, or who shall manufacture or offer for sale malt liquors of an alcoholic strength above ten per cent., shall upon conviction before the District Magistrate of said District of Honolulu, forfeit his license and be punished by a

fine not exceeding one thousand dollars, or by imprisonment at hard labor for a term not exceeding one year.

§477. Any license granted under this Act shall become void unless the owner thereof shall be ready to begin the manufacture of malt liquors and shall begin such manufacture within one year from the date of such license.

§478. The legal representative or representatives of the person to whom the license is issued shall be the owner or owners thereof, and entitled to all the privileges and be subject to all the disabilities of this Act; provided, that no owner of such license shall voluntarily sell or transfer the same without the written consent of the Minister of Interior.

#### PART V.—SALE OF MALT LIQUORS.

§479. The Minister of the Interior is hereby authorized to grant licenses for one year in this Republic to any person or persons making written application for the same to sell by the glass, or in any other quantity less than five gallons, malt liquors manufactured in Honolulu under Sections 472 to 478 inclusive, upon receiving for each license the sum of two hundred and fifty dollars.

§480. The proposed location of such licensed premises shall be subject to approval by the said Minister, and shall not be changed except by his written consent.

§481. Before receiving a license to sell malt liquors as above, the applicant shall file an approved bond with the Minister of the Interior in the penalty of one thousand dollars, conditioned:

First: That he will not dispose of any malt liquors to any person in a state of intoxication, or to minors.

Second: That he will not sell or otherwise dispose of on the premises for which he is licensed any wines, malt liquors or

spirits of any description whatever; and also that he will not store, or allow to be stored on the premises for which he is licensed any wines, malt liquors or spirits of any description whatsoever, except such beer manufactured in Honolulu, and under the said above-mentioned sections.

§482. Such license and bond may contain any provisions which, in the opinion of said Minister, shall be necessary to the correct regulation of the business and premises so licensed, and to prevent or detect violations of this act, or of such license or bond.

§483. Upon the conviction of the party so licensed for breach of any of the terms of his bond or license, the amount of such bond shall be forfeited, and, in addition to all penalties imposed by law, he shall be ineligible for a license of any class for a term of two years.

PART VI.—MANUFACTURE OF WINE FROM GRAPES OF HAWAIIAN GROWTH.

§484. The Minister of the Interior is hereby authorized to grant licenses for the manufacture of wine from grapes of Hawaiian growth, provided the applicant for such license shall first file with said Minister a bond in the following form, with one good and sufficient surety:

“Know all men by these presents that we, . . . . ., principal, and . . . . ., surety, residing at . . . . ., in the Island of . . . . ., Hawaiian Islands, are held and firmly bound unto . . . . ., Minister of the Interior, and to his successors in office in the penal sum of five hundred dollars, to be levied on our respective joint and several property, in case the conditions or any or either of them herein set forth shall be violated. For the faithful payment of which we hereby bind ourselves, our heirs, executors and administrators.

Witness our hands and seals this . . . . . day of . . . . ., A. D. 18..

The condition of this obligation is, that whereas the said . . . . ., principal, has this day obtained a license to manufacture wine out of grapes of Hawaiian growth, for the term of three years from this date; now, if he shall not manufacture any brandy, rum or other spirituous liquors; if he shall send the wine so manufactured to the Collector-General for storage in bond; if he shall not manufacture wine out of grapes grown in any foreign country; if he shall not sell any wine manufactured under this license to any person other than to licensed dealers in spirituous liquors; if he shall, on or before the last day of December in each year, furnish the said Minister with a correct statement, in writing, of the quantity of wine manufactured by him during the past year, the quantity sold and still on hand, then this obligation to be void; otherwise, upon proof being made to the satisfaction of any District Magistrate of the violation of any or all of the above conditions, the penalty mentioned in the above bond shall be forfeited for the benefit of the Hawaiian Government.

(L. s.) . . . . ., Principal,  
 (L. s.) . . . . ., Surety.

§485. All wine manufactured under the provisions of this Act shall be sent by the manufacturer or licensee to the nearest Custom House, where the same shall be stored in bond, subject to such rules and regulations as may be in force regarding the storage and delivery of imported wines and spirits in bond; provided, however, that the rate of storage of such wine shall not exceed one quarter of one cent per American gallon per month.

§486. There shall be levied and collected an internal revenue upon all wine so manufactured and stored, a duty of one-third of the amount levied and collected upon grape wines of foreign manufacture of equal alcoholic strength. Such internal revenue shall be collected upon the withdrawal of such wines by any licensed dealer in spirituous liquors purchasing the same from the manufacturer thereof.



§487. Upon a forfeiture of the bond provided for in Section 484, the license granted by the Minister of the Interior shall cease and determine.

§488. Whoever shall manufacture wine for sale without first obtaining a license as prescribed by this Act, or who, having obtained said license, shall sell said wine otherwise than as prescribed by the conditions of the bond set forth in Section 484 shall, on conviction thereof, before any District Magistrate, be liable to the fines and penalties prescribed for selling spirituous liquor without license.

## NOTE TO CHAPTER 41.

## PART I.

§§408 to 421 are S. L. 1892, Ch. 108. Repealing Act of Dec. 30, 1864, and S. L. 1874, Ch. 23.

## PART II.

§§422-463 are S. L. 1882, Ch. 44, C. L. p. 689. Repealing P. C. Ch. 41, amended as follows: §§425 and 430 by S. L. 1884, Ch. 36. §§436, 437 and 444 by S. L. 1886, Ch. 3. §439 by S. L. 1887, Ch. 16. §451 by P. G., Act 36. §453 by S. L. 1886, Ch. 56. §§464-465 are P. G., Act 36. §§424 and 425 are modified by §415. The Act mentioned in §425 was repealed by S. L. 1892, Ch. 108.

## PART III.

§§466-471 are S. L. 1888, Ch. 67.

## PART IV.

§§472-478 are S. L. 1886, Ch. 72.

## PART V.

§§479-483 are S. L. 1888, Ch. 46.

## PART VI.

§484 is P. G. Act 82. §§485-486 are 1896, Act 58. §§487-488 are P. G. Act 82.

Cases in Hawaiian Reports: Minister of Interior v. Glover, 3 Haw. 697; Rex v. Akana, 7 Haw. 166; Wing Wo Tai v. Haw. Govt., 7 Haw. 498; Wing Wo Chan v. Haw. Govt., 7 Haw. 501; R. v. Fernandez, 7 Haw. 505; Bradley v. Thurston, 7 Haw. 523; Rex v. Ah Gock, 7 Haw. 544; R. v. Gasper, 8 Haw. 234; Re Cabinet, 8 Haw. 586; Govt. v. San Tana, 9 Haw. 107; Govt. v. Sakuhachi, 9 Haw. 388.

## CHAPTER 42.

## KEEPING A DISORDERLY HOUSE.

§489. Whoever shall keep a disorderly house shall be punished, where no other punishment is expressly provided by statute, by fine not exceeding one hundred dollars, or by imprisonment at hard labor not more than six months.

§490. The following houses are disorderly, within the meaning of the provisions of this chapter, viz.:

Houses kept for the purpose of public prostitution:

Houses in which any indecent postures, or indecent, immoral or disorderly shows or sights are exhibited:

Houses kept for the sale of any intoxicating drink without license:

Houses in which gambling is permitted.

§491. Any part of a building appropriated to either of the purposes above enumerated, is a house within the meaning of this chapter.

§492. The wife may be punished with the husband for keeping a house for the purpose of public prostitution.

## NOTE TO CHAPTER 42.

§§489-492 are P. C. Ch. 42, unaltered.

Cases in Hawaiian Reports: Govt. v. Wery, 9 Haw. 229.

CHAPTER 43

OFFENSES COMMITTED ON THE HIGH SEAS AND OTHER WATERS.

§493. Whoever on the high seas, in a vessel bearing the Hawaiian flag, commits the crime of murder, or rape, or maliciously wounds or otherwise injures another, of which wound or injury such other shall afterwards die upon sea or land, shall be punished by death.

§494. Whoever on the high seas, in a vessel bearing the Hawaiian flag, commits manslaughter, shall be punished by imprisonment at hard labor for life or any number of years, in the discretion of the Court.

§495. Whoever on the high seas, by surprise or open force or violence, maliciously attacks any vessel belonging in whole or in part to the Hawaiian Government, or to any citizen thereof, or to any other person whatsoever, with intent unlawfully to plunder the same or despoil another of any money, goods or other things of value on board thereof, shall be punished by a fine not exceeding five thousand dollars, and by imprisonment at hard labor not exceeding ten years.

§496. Whoever on the high seas shall, with intent to kill, rob, steal, commit a rape, or to do or perpetrate any other felony, break or enter any vessel or other water craft; and whoever on the high seas, or in any channel, arm of the sea, river, haven, creek, basin or bay within the jurisdiction of this Republic, shall willfully and maliciously cut, spoil or destroy any cordage, cable, buoys, buoy rope, headfast or other fast fixed to any anchor or

mooring belonging to any vessel or other water craft, shall be punished by fine not exceeding one thousand dollars, and imprisonment at hard labor not more than five years.

§497. Whoever on the high seas shall buy, receive, or conceal, or aid in concealing any money, goods or other things which may be the subject of larceny, which has been feloniously taken or stolen from any other person, knowing the same to have been so taken or stolen, shall be punished by fine not exceeding one thousand dollars and imprisonment at hard labor not exceeding three years.

§498. Whoever shall plunder, steal or destroy any money, goods or other effects, from or belonging to any vessel or other water craft, which shall be in distress, or wrecked, lost, stranded or cast away, upon the sea, or upon any shore, reef, shoal, bank or rocks of the sea; and whoever shall willfully obstruct the escape of any person endeavoring to save his life from such vessel or water craft, or the wreck thereof, and whoever shall hold out or show any false light with intention to bring any vessel or other water craft, being or sailing upon the sea, into danger, or distress, or shipwreck, shall be punished by fine not exceeding five thousand dollars, and imprisoned at hard labor not more than ten years.

§499. Whoever, not being an owner, shall on the high seas willfully and maliciously cast away, set on fire, or otherwise destroy any vessel lawfully bearing the Hawaiian flag, or procure the same to be done, shall be punished by death, or imprisonment at hard labor for life, or any number of years, according to the aggravation of the offense.

§500. Whoever, being the owner in whole or in part of any vessel bearing the Hawaiian flag, shall, on the high seas, willfully and maliciously cast away, set on fire, burn or otherwise destroy any such vessel, or in anywise direct or procure the

same to be done, with intent to prejudice any other owner of such vessel, or any person who shall load goods thereon, or any underwriter on such vessel or her cargo, shall be punished by death, or imprisonment at hard labor for life or any number of years.

§501. Whoever, being an owner in whole or in part of any vessel, or not being such owner, shall willfully and maliciously set on fire, burn or otherwise destroy or attempt to destroy, any vessel, in any port, channel, bay or haven, or other waters within the jurisdiction of this Republic; and whoever shall willfully and maliciously cast away any vessel on the sea, or on any reef, rock, shoal, bank or other place within the jurisdiction of this Republic, shall be punished by imprisonment at hard labor for life or any number of years, according to the nature and aggravation of the offense.

§502. Whoever, belonging to the crew of any Hawaiian vessel, shall on the high seas or on any other waters within the jurisdiction of this Republic, unlawfully and willfully, with force, threats or otherwise, usurp the command of such vessel from the master, or other lawful commanding officer thereof, or deprive him of his command thereof, or resist or prevent him in the free and lawful exercise thereof, or transfer such command to any other person not lawfully entitled thereto, shall be adjudged guilty of a revolt or mutiny, and shall be punished by fine not exceeding two thousand dollars, and by imprisonment at hard labor not more than ten years, according to the nature and aggravation of the offense.

§503. Whoever, belonging to the crew of any Hawaiian vessel, shall, on the high seas or on any waters within the jurisdiction of this Republic, endeavor to make a revolt or mutiny on board such vessel, or shall conspire, combine or confederate, with any other person on board to make such revolt or mutiny, or shall solicit, incite or stir up any other of the crew to disobey

M

## 194 OFFENSES COMMITTED ON HIGH SEAS.

or resist the lawful orders of the master or other officer of such vessel, to refuse or neglect their proper duty on board thereof, or shall assemble with others in a tumultuous and mutinous manner or make a riot on board thereof, or shall unlawfully confine the master or other commanding officer thereof, shall be punished by fine not exceeding one thousand dollars, or by imprisonment at hard labor not more than five years, or both, according to the nature and aggravation of the offense.

§504. If any master or other officer of a Hawaiian vessel on the high seas, or on any other waters within the jurisdiction of this Republic, shall maliciously and without justifiable cause beat, wound or imprison any one or more of the crew of said vessel or withhold from them suitable food and nourishment, or inflict upon them any cruel and unusual treatment, he shall be punished by fine not exceeding one thousand dollars, or by imprisonment at hard labor not more than five years, or both, according to the nature and aggravation of the offense.

§505. If any master or other officer commanding any Hawaiian vessel shall, during his being abroad, maliciously and without justifiable cause, force any officer or mariner of such vessel on shore, or leave him behind in any foreign port or place; or refuse to bring home again all such officers and mariners whom he carried out with him as are in a condition to return, and willing to return when he shall be ready to proceed on his homeward voyage, he shall be punished by fine not exceeding one thousand dollars, or by imprisonment at hard labor not more than two years, according to the aggravation of the offense.

§506. If any offense shall be committed on board of any Hawaiian vessel, while lying in any port or place within the jurisdiction of any foreign state, by any officer, mariner, passenger, or other person belonging to the said vessel, it shall be cognizable and punishable in this Republic in the same way and

OFFENSES COMMITTED ON HIGH SEAS. 195

manner as if said offense had been committed on board of such vessel on the high seas, and without the jurisdiction of such foreign state: Provided, however, that if such offender shall be tried for such offense, and acquitted thereof, or convicted in any competent Court of such foreign state, he shall not be subject to another trial in any Court of this Republic.

NOTE TO CHAPTER 43.

§§493-506 are P. C. Ch. 43, unaltered.

## CHAPTER 44.

## ATTEMPTS AND INSTIGATIONS.

§507. An attempt to commit an offense, is some act done towards committing, and in part execution of the intent to commit the same. As, for example, putting poison in the way of a person, with intent thereby to murder him.

§508. A mere preparation of the means of committing any offense, nothing being done in execution of the intent to commit the same, is not an attempt to commit the same. As, for example, merely procuring poison intended to be used for murder.

§509. Where any offense attempted is committed by the party making such attempt, the attempt is merged in the offense.

§510. Where it does not appear which of two or more degrees of any offense is attempted, the lowest of such degrees is presumed.

§511. Whoever attempts to commit any offense, for the punishment of which attempt no special provision is otherwise expressly made, shall, if the offense be punishable with death or imprisonment for life, be punished by imprisonment at hard labor not more than ten years. And in any other case, by fine and imprisonment, or either, in the discretion of the Court, but not exceeding the punishment prescribed for such offense.

§512. Whoever instigates another to the commission of any offense, by commanding, soliciting or offering to hire, or otherwise endeavoring to induce him to commit the same, shall be subject to the penalty of an attempt to commit such offense.



§513. The instigation is merged in the offense committed in pursuance thereof, when the offense is committed in such a manner that the instigator is guilty thereof, by reason of his being an accessory before the fact or otherwise.

§514. If, before an offense is attempted in pursuance of an instigation thereto, the instigator repents, and countermands the same, and endeavors to his utmost to prevent the offense, he shall not be subject to punishment for the instigation.

§515. No person shall be convicted of instigating another to an offense on the mere testimony of the party professing to have been so instigated, not corroborated by other evidence direct or circumstantial, except in cases where it is expressly otherwise provided.

#### NOTE TO CHAPTER 44.

§§507-515 are P. C. Ch. 44, unaltered.

Cases in Hawaiian Reports: *Rex v. Kaimano*, 3 Haw. 565; *Rex v. Leong Tiam*, 7 Haw. 340; *Govt. v. Oishi*, 9 Haw. 644.

## CHAPTER 45.

## ACCESSORIES AFTER THE FACT.

§516. If any one, not standing in the relation of husband or wife, parent or child, brother or sister, by consanguinity or affinity, to any person guilty, either as principal or accessory before the fact, of any offense punishable by death or imprisonment for life, shall harbor, conceal, maintain, or assist such person, with the intent that such person shall avoid or escape from detection, arrest, trial or punishment, he shall be deemed an accessory after the fact to such offense; and shall be punished, where punishment for his offense is not otherwise expressly provided, by imprisonment at hard labor not more than ten years, or by fine not exceeding two thousand dollars.

§517. Whoever is accessory after the fact to any other offense punishable by imprisonment for five years or more, shall be punished, where punishment is not otherwise provided by law, by imprisonment at hard labor not more than two years, or by fine not exceeding five hundred dollars.

## NOTE TO CHAPTER 45.

§§516-517 are P. C. Ch. 45, unaltered.  
Accessories before the fact, see P. L. Ch. 5.

## CHAPTER 46.

## FORMER CONVICTION OR ACQUITTAL.

§518. Any person who has been tried and convicted of any offense before a Court, Tribunal or Magistrate having jurisdiction of the case, shall not be subject to subsequent criminal prosecution therefor, and such conviction may be pleaded in bar of any such subsequent prosecution.

§519. No person shall be subject to be tried again for the same offense, of which he has been found not guilty and acquitted on a former trial, upon the facts and merits before a Court, Tribunal or Magistrate having jurisdiction of the case; and such acquittal may be pleaded in bar of any such subsequent prosecution.

§520. Where the same act constitutes two or more diverse and distinct offenses, different in their nature and character, one not being merged in the other, the offender may be proceeded against for each, and cannot plead a conviction or acquittal for one, in bar of proceedings against him for the other.

§521. Any person acquitted on trial of any charge of any offense upon the ground of variance between the indictment, information or complaint, and the proof, or upon any exception to the form or the substance of the indictment, information or complaint, may be subsequently tried and convicted of such offense under a new indictment, information or complaint, notwithstanding such former acquittal.

200 FORMER CONVICTION OR ACQUITTAL.

§522. Any public officer who is acquitted or convicted on an impeachment for any misdemeanor, cannot plead such conviction or acquittal in bar of a criminal prosecution for the same.

NOTE TO CHAPTER 46.

§§518-522 are P. C. Ch. 46, unaltered.

Cases in Hawaiian Reports: *Re v. Lau Chew*, 8 Haw. 374.

## CHAPTER 47.

## SUPPRESSION OF OFFENSES.

§523. When any one fears that another intends to commit an offense against his person, or property, with violence, he may apply to any Police or other Justice, who shall take the declaration of the applicant, under oath, reduced to writing; and if it appears that he has reason to fear the commission of such offense, the Justice may cause the person complained of to be arrested and brought before him by warrant.

§524. Where any one so arrested is brought before the Justice, he shall hear any statement or proof the accused has to offer, and if from such statement and evidence it appears that the complainant has mistaken the intention of the accused, and has no cause of fear, the prisoner shall be discharged; if he fail in showing that the application is groundless, the Justice shall direct the accused to give bond, in a sum proportioned to the nature of the offense, with sufficient surety that he will commit no offense against the person or property of the complainant.

§525. If the bond be not executed according to the order of the Justice, the prisoner shall be committed to prison, and shall remain in custody until the bond be so executed.

§526. If, from the nature of the evidence offered, or from the demeanor of the prisoner, the Magistrate has reason to believe that the prisoner intends an offense against the person or property of any person who cannot be designated, he may order

the bond to be conditioned that he will commit no offense against the person or property of any one.

§527. The bond shall be limited in its operation to the term of one year; but it may be for a shorter time; and at any time within the last month of the year, the complainant may renew his application, and the order for security may be renewed on the oath of the party, declaring that he still fears the execution of the prisoner's former designs, provided the Justice, after hearing the circumstances of the case, shall deem such fear well founded.

§528. Any Justice who is present when any offense, accompanied with violence, is committed, may, without any other proof, order the offender to be arrested, and compel him to give security in the manner above directed, to refrain from the exercise of any illegal force.

§529. Any person who knows or has reason to suspect that any offense against the person or property of another is intended to be committed, may apply to a Justice, who shall hear the proof, and if he be convinced of the existence of such intention, shall cause the person accused to be arrested, and compelled to give security in the manner above directed.

§530. Where, upon the conviction of a person for an offense, it appears from the character of the offender or his conduct in committing the offense, there is good reason to apprehend a repetition of that offense, or the commission of some other, the Court or Justice may add to their sentence that after the execution of the punishment is complete, and before the offender, if in custody, is discharged, he shall give security in the form and for the time above directed, either that he will not commit any particular offense or any designated species of offenses, or generally, that he will commit no offense for the time limited.

§531. If the condition of any bond given under any of the provisions of this chapter be forfeited, it shall be put in suit by the public prosecutor, who must specify in his petition in such suit, the offense which has caused the breach of the condition of the bond.

§532. At any time before the breach of the condition of such bond, the surety may discharge himself by surrendering the principal into the hands of the Marshal or Chief Constable of the district.

NOTE TO CHAPTER 47.

§§523-532 are P. C. Ch. 47, unaltered.

Cases in Hawaiian Reports: *Re v. Bridges*, 5 Haw. 472.

## CHAPTER 48.

## SEARCH WARRANTS.

§533. Another means of preventing the commission of offenses, and of detecting them when committed, is by the issuing of search warrants.

§534. A search warrant is an order in writing made by a Justice, or other Magistrate, directed to an officer of justice, commanding him to search for certain articles supposed to be in the possession of one who is charged with having obtained them illegally, or who keeps them illegally, or with the intent of using them as the means of committing a certain offense.

§535. The power of granting this writ is one in the exercise of which much is necessarily left to the discretion of the Magistrate, but, except in cases where this power is elsewhere specially granted by statute, search warrants can only be granted for the following purposes, viz:

To discover property taken by theft or under false pretenses, or found and fraudulently appropriated:

To seize forged instruments in writing, or counterfeit coin intended to be passed, or the instruments or materials prepared for making them:

To seize arms or munitions prepared for the purpose of insurrection or riot:

To discover articles necessary to be produced as evidence or otherwise on the trial of any one accused of a criminal offense.

§536. A search warrant can be granted in no case, but on an affidavit setting forth sufficient facts in the opinion of the Magistrate to justify the issuing of such warrant.



§537. The warrant must be in writing, signed by the Magistrate with his official designation, directed to some Sheriff or other officer of justice; and commanding such Sheriff or other officer to search for and bring before the Magistrate the property or articles specified in the affidavit, to be disposed of according to justice; and also to bring before him the person in whose possession the property or articles may be found, for examination.

§538. If the search warrant be directed to a Sheriff or Prefect of Police it may be executed by him or any of his deputies.

§539. Before executing the warrant the officer must give notice to the person who applied for it, that he may be present and identify the property if found.

§540. The officer charged with the warrant, if a house, store, or other building is designated as the place to be searched, may enter it without demanding permission if he finds it open; if the doors be shut he must declare his office and his business, and demand entrance; if the doors, gates or other bars to the entrance be not immediately opened, he may break them. When entered, he may demand that any other part of the house, or any closet, or other closed place in which he has reason to believe the property is concealed, may be opened for his inspection, and if refused he may break them.

§541. If there should be reasonable cause to believe that arms or munitions of war are collected in any place for the purpose of insurrection or riot, or for carrying out any seditious or treasonable intent, or any other unlawful purpose, a search warrant may be issued in such case, with or without an order to the officer executing the same, to bring before the Judge or Magistrate issuing the same the person in whose possession such arms or munitions of war may be found. And in case the warrant contains no such order, such arms or munitions of war shall, if found, be brought before the Judge or Magistrate, and

be secured by him, and he shall thereupon as soon as may be cause a notice to be published in some newspaper, describing the articles seized and giving notice of a time and place of a hearing, to take place not less than four and not more than five weeks from the publication of such notice, at which time and place all parties claiming such articles may appear and prove ownership. If no appearance shall be made at such hearing, and no action shall be brought previous to the time of the said hearing for the recovery of the said goods by parties claiming such goods, the same shall be forfeited to the Hawaiian Government; but if any parties appear at such hearing claiming such goods, or shall bring action before the time of such hearing for the recovery thereof, their claim shall be heard, and if, in the opinion of the Court such claims shall not be satisfactorily proved, or if they are proved, but the Court shall find reasonable cause to believe that such articles were collected for the purpose of insurrection, or riot, or for carrying out any seditious or treasonable intent, or for any other unlawful purpose, the same shall be forfeited to the Hawaiian Government. In any such hearing the burden of proof shall be upon the claimant to show that arms or munitions of war were not collected or procured for the purpose of insurrection, or riot, or for carrying out any seditious or treasonable intent, or other unlawful purpose.

§542. In the case of any seizure of articles by search warrant under the provisions of this chapter, no claimant shall be entitled to the delivery of such articles before judgment in an action for the recovery therefor, under the provisions of Chapter 107 of the Civil Laws, or of any other provision of any other law.

NOTE TO CHAPTER 48.

§§533-534 are P. C. Ch. 48 §§1-2. §535 is P. C. Ch. 48 §3, amended S. L. 1876, Ch. 52, C. L. p. 597. §§536-540 are P. C. Ch. 48, §§4-8. §§541-542 are P. G. Act 34.

P. C. Ch. 48, §9, repealed S. L. 1876, Ch. 52, C. L. p. 597.

Cases in Hawaiian Reports: *King v. Ah Lau You*, 3 Haw. 393; *Hung Lung Kee & Co. v. Bickerton and Parker*, 4 Haw. 584; See *Hop v. Chillingworth*, 5 Haw. 537; *R. v. Luce*, 6 Haw. 684.

## CHAPTER 49.

## ARRESTS.

§543. No arrest of any person shall be made without first obtaining a warrant or other process therefor from some Magistrate, except in the cases in this chapter hereinafter provided.

§544. Where a breach of the peace or other offense has been committed, and the offender shall endeavor to escape, he may be arrested by virtue of a verbal order of any Magistrate, or without such order, if no Magistrate be present.

§545. Any one in the act of committing a crime, may be arrested by any person present, without a warrant.

§546. Whenever a crime is committed, and the offenders are unknown, and any person shall be found near the place where the crime was committed, either endeavoring to conceal himself, or endeavoring to escape, or under such other circumstances as to justify a reasonable suspicion of his being the offender, such person may be arrested without warrant.

§547. Policemen, or other officers of justice, in any seaport or town, even in cases where it is not certain that an offense has been committed, may, without warrant, arrest and detain for examination such persons as may be found under such circumstances as justify a reasonable suspicion that they have committed or intend to commit an offense.

§548. At or before the time of making an arrest, the person must declare that he is an officer of justice, if such be the case.

If he have a warrant he should show it if required; or if he make the arrest without warrant in any of the cases in which it is authorized by law, he should give the party arrested clearly to understand for what cause he undertakes to make the arrest, and must require him to submit and accompany him to the jail or Magistrate. This done, the arrest is complete.

§549. In all cases where the person arrested refuses to submit or attempts to escape, such degree of force may be used as is necessary to compel him to such submission.

§550. He who makes an arrest may take from the party arrested all offensive weapons which he may have about his person, and must deliver them to the Magistrate, to be disposed of according to law.

§551. In all cases of arrest for examination, the person making the same must conduct the party arrested before the Court or Magistrate empowered to take such examination, within forty-eight hours after his arrest, except in cases where a longer delay is absolutely necessary to meet the ends of justice.

§552. Whenever it is necessary to enter a house to arrest an offender, and entrance is refused, the officer or person making the arrest may force an entrance by breaking doors or other barriers. But before breaking any door, he shall first demand entrance in a loud voice, and state that he is the bearer of a warrant of arrest; or if it is in a case in which arrest is lawful without warrant, he must substantially state that information in an audible voice.

#### NOTE TO CHAPTER 49.

§§543-552 are P. C. Ch. 49, unaltered.

Jurisdiction for arrests, see P. L. Ch. 52.

Cases in Hawaiian Reports: *Hubertson v. Cole*, 1 Haw. 44; *In re Flanchet*, 2 Haw. 96; *In re Kauffman*, 2 Haw. 313; *King v. Huntley*, 2 Haw. 457; *In re Jas. Brown*, 6 Haw. 704; *Re Man Nun*, 7 Haw. 463; *Re v. Sin Fook*, 8 Haw. 186; *Govt. v. Caeceres*, 9 Haw. 528.

## CHAPTER 50.

## BAIL.

§553. Bail, or the giving of bail, is the signing of the recognizance by the person and his surety or sureties, conditioned for the appearance of the prisoner at the session of a Court of competent jurisdiction, to be named in the condition, and to abide the judgment of such Court.

§554. In all cases where the offense charged is not punishable with death, the accused shall be bailable, but in no others, provided that where the offense charged is punishable by imprisonment for life, or for a term exceeding ten years, any Justice of a Court of Record, but no other Magistrate, shall have the power to admit the accused to bail.

§555. Bail may be taken by District Magistrates before committing the accused for trial, but after commitment, no one but the Magistrate who has heard the case, or a Judge of a Court of Record, can let a prisoner to bail. Provided, however, that when such bail is not furnished, the prisoner shall be committed to prison.

§556. Every defendant appealing from the decision of any Circuit Judge, or District Magistrate, in any criminal or penal prosecution, shall remain in the custody of the Marshal or Sheriff of the Island, until the term of the Supreme or Circuit Court to which said defendant has appealed, unless he deposit with the Marshal or Sheriff, a good and sufficient bond in a penal sum equal to the fine or penalty imposed upon such defendant in the Court below, conditioned for his appear-

ance for trial at the Supreme or Circuit Court as aforesaid. And in all cases where the punishment adjudged by the Circuit Judge, or District Magistrate, is both fine and imprisonment, or imprisonment only, the Marshal or Sheriff shall exact from the defendant a bond, conditioned as aforesaid, in the penal sum of not less than one hundred, nor more than one thousand dollars.

§557. When bail is offered and taken the prisoner must be discharged from custody or imprisonment.

§558. Where the offense is the illegal infliction of a wound, or any other injury that may terminate in the death of the person injured, the Magistrate or Court cannot discharge the prisoner if it appear that there is a probability that death will ensue in consequence of such injury. In this case, the party must be committed for further examination, until the consequences of the injury can be ascertained.

§559. The amount of bail rests in the discretion of the Justice or Judge; but should be so determined as not to suffer the wealthy to escape by the payment of a pecuniary penalty, nor to render the privilege useless to the poor. In all cases, the officer letting to bail should consider the punishment to be inflicted on conviction, and the pecuniary circumstances of the party accused.

§560. Where the punishment of the offense is a pecuniary penalty only, the bail must be greater than the highest fine that can be imposed.

§561. No person shall be received as a surety for the appearance of the party accused, who does not own or possess property either real or personal within this Republic, to double the amount of the bail bond. And in case the officer taking the bail shall doubt the sufficiency of such surety, he may compel

the surety, either by his own oath or otherwise, to furnish proof of his sufficiency.

§562. A single surety will be sufficient, if he possesses and owns unencumbered real property within this Republic to double the amount for which he is bound, otherwise there must be two or more. A woman cannot be received as surety.

§563. When the person admitted to bail is a minor or married woman, the engagement shall, notwithstanding, be valid.

§564. If, owing to mistake or misrepresentation, insufficient bail has been taken, or if the sureties afterwards become insufficient, the accused may be ordered to find sufficient sureties by any Magistrate, and on his refusal, he may be committed for trial.

§565. In all cases where a Magistrate shall either commit for trial, or bail the accused, he may cause each of the witnesses who has been examined and has testified to any material fact or circumstance in the case to enter into a recognizance, with or without surety, at his discretion, in a sum fixed by the Magistrate, conditioned for his appearance at the sitting of the Court at which the accused is bound or committed to appear. If a witness shall refuse to sign such recognizance when required, he may be committed to prison by the order of the Magistrate, and shall be confined until he shall be brought before the Court to testify, or until he shall give the recognizance.

§566. Those who may have become bail for any one, may at any time discharge themselves, by surrendering him to the custody of the Marshal or Sheriff of the Island in which the Court at which he was bound to appear shall sit.

§567. The Magistrate who shall make any commitment or let any person to bail, shall without any unnecessary delay, at the

farthest within ten days, transmit to the Clerk or Presiding Judge of the Court which has legal cognizance of the offense charged, all the complaints, depositions, bail bonds, bonds for the appearance of witnesses and other documents in his possession relative to the accusation.

§568. The names of all persons who have given bail or have become bound by recognizance to appear in any Court, shall be called in open Court on the day they are respectively bound to appear, and if they fail to appear before the adjournment of the Court, their default shall be entered, and such entry shall be evidence of the breach of their appearance bonds or recognizances.

§569. Courts may also, on the motion of the public prosecutor, order the Sheriff to arrest and bring before them any person who has been bound by recognizance or summoned to appear and give testimony and who has not attended at the time appointed, and when so arrested, the said witnesses may be also fined in any sum not exceeding one hundred dollars for their neglect, and must remain in custody until they give their testimony and are discharged from farther attendance, or until they give such security as shall satisfy the Court, for their appearance to testify.

§570. Witnesses bound to appear, and persons let out on bail, must not only attend on the day appointed in their respective obligations, but at such other times as the Court shall direct, and the obligation continues until they are discharged by the Court.

§571. All persons charged with criminal offenses, shall beailable by sufficient sureties, unless for capital offenses, when the proof is evident or the presumption great.

§572. If the charge be for an offense not capital in its nature, the defendant may be admitted to bail before conviction



as a matter of right, and such right shall continue after conviction in all cases other than those wherein a sentence of at least twenty years' imprisonment may be imposed until the final determination of any motion for a new trial, appeal, exceptions, *certiorari*, *Habeas Corpus* or other proceedings which shall have been made, taken, issued or allowed for the purpose of securing a review of the rulings, verdict, judgment, sentence or other proceedings of any Court or jury in or by which such defendant has been arraigned, tried, convicted or sentenced. In all cases not capital where the punishment must be imprisonment for twenty years or more, it shall rest in the discretion of the trial Court to admit the defendant to bail after conviction. No defendant entitled to bail, whether bailed or not, shall without his written consent be subjected to the operation of any sentence passed upon him while any proceedings to procure a review of any action of the trial Court or jury in the premises shall be pending and undetermined.

§573. In cases where the punishment for the offense charged may be death, or imprisonment for a term not less than ten years with or without fine, a Judge or Justice of a Court of Record, but no other Magistrate, shall be competent to admit the accused to bail, in conformity with the provisions of this Act. In all other cases the accused may be so admitted to bail by any Judge or Justice of a Court of Record, or by any Police or District Justice, and in cases where the punishment for the offense charged may not exceed two years imprisonment with or without fine, the Marshal, his deputy, any Sheriff or his deputy, may admit such accused person to bail.

§574. Unless otherwise ordered by the Court the bail bond given by any defendant prior to his conviction, shall (in cases where bail after conviction is permitted either absolutely or by order of the Court) be continued as the bail of such defendant after conviction, and until the final determination of any subsequent proceedings in such cause.

§575. Provided, however, that in cases of arrests for the offense of murder, or for any of the offenses set forth in Act 3 of the Acts of the Provisional Government of the Hawaiian Islands, entitled "An Act to amend Chapter 6 of the Penal Code relating to Treason," or for the offense of seditious conspiracy, set forth in Act 8 of the Acts of the Provisional Government of the Hawaiian Islands, entitled "An Act concerning Seditious Offenses," the person arrested shall not be admitted to bail without the consent of the Attorney-General, who shall have full authority to refuse bail in such cases.

NOTE TO CHAPTER 50.

§553 is P. C. Ch. 50 §1. §554 is S. L. 1888, Ch. 27. §555 is S. L. 1876, Ch. 16, C. L. p. 575. §556 is C. C. §1009. §§557-570 are P. C. Ch. 50, §§4-18. §571-574 are S. L. 1892, Ch. 32. §575 is P. G. Act 38.

Cases in Hawaiian Reports: Re Walker, 9 Haw. 175.

## CHAPTER 51.

## FINES AND COSTS.

§576. Whenever a fine is imposed by any Court or Magistrate, according to law, upon any person, and such fine shall not be paid within ten days after such imposition, or an appeal taken, where the trial is in a Court not of Record, the Court or Magistrate imposing such fine may issue an execution for the same; to be levied upon the offender's property, real or personal.

§577. When a judgment of fine and costs, or either of them is not satisfied by immediate payment thereof, the offender so sentenced shall be committed to prison, there to remain at hard labor or otherwise, in the discretion of the Court or Magistrate, until such fine is paid or collected out of the offender's property as prescribed in the above section. Provided, however, that when any poor convict shall have been imprisoned for the space of one year, for fine and costs, or either of them, any two Magistrates may order such convict to be brought before them for examination, and if, upon inquiry, they shall be satisfied that he has not since his conviction, had any estate, real or personal, with which he could have paid the sum for which he stood committed, and that he is held for no other cause, they may direct the Marshal of the Republic, or his deputy having him in custody, to discharge such convict from prison.

§578. Clerks of any Court, District Magistrates, and other officers who shall receive any fines, forfeitures or costs, imposed or awarded by any Court to the use of the Government, shall keep a correct account of the same, with the names of the persons

from whom the same are received, and the dates when they were received; and shall pay over the same to the Governors of their respective islands, except that, on the Island of Oahu, all fines, forfeitures and costs shall be paid to the Minister of Finance; and moreover, once in three months shall render an account of the same to said Governors, or if on Oahu, to said Minister of Finance.

§579. If any clerk or other officer shall neglect to make such payment, or render such account, it shall be deemed a sufficient cause of removal by the power appointing such officer, and the Governor of the Island or the Minister of Finance may sue for and recover of him the amount of such fines, forfeitures and costs, with interest from the receiving of the same, at the rate of twenty per cent. and the costs of suit.

§580. If any officer having any person in his custody, by virtue of a sentence of Court, for the payment of any sum as a fine, forfeiture or costs, shall voluntarily or negligently suffer such person to escape, he shall be deemed to have received such fine, forfeiture or costs at the time of the escape, and shall be held liable to pay over the same with interest and costs of suit, as provided in the preceding section.

§581. Whenever a person shall be convicted of an offense under any provision of the Penal Code of this Republic, his property shall be liable for the costs incurred in his prosecution, and the Court or Magistrate before whom he is tried may issue an execution therefor.

§582. When such costs are not paid by the party prosecuted, or collected out of his property, they shall be paid out of the Treasury of the Republic, upon the order of the Judge presiding at the trial.

§583. When any person shall be sentenced to pay a fine and costs or either of them and to be imprisoned until the same

be paid, the time of his imprisonment shall be deemed to discharge the same at the rate of fifty cents a day.

NOTE TO CHAPTER 51.

§576 is P. C. Ch. 51, §1. §577 is S. L. 1870, Ch. 26, C. L. p. 51. §§578-582 are P. C. Ch. 51 §§3-7. §583 is S. L. 1886, Ch. 23.

Cases in Hawaiian Reports: R. v. Tong Wo, 5 Haw. 22; Re Apuna, 6 Haw. 737; Re Piipilani, 7 Haw. 102.

## CHAPTER 52.

## CRIMINAL JURISDICTION.

## PART I.—CRIMINAL JURISDICTION OF DISTRICT MAGISTRATES.

§584. District Magistrates shall have jurisdiction for the prosecution, trial and sentence to punishment of any person charged with either of the following offenses, namely: Any misdemeanor, larceny in the second degree and gross cheat; also bribery, where the punishment prescribed does not exceed imprisonment at hard labor for two years, or fine of five hundred dollars.

§585. The District Courts shall have exclusive original jurisdiction within their respective districts over all criminal offenses which are within the jurisdiction of Police and District Courts according to law, or which may hereafter be placed by law within the jurisdiction of District Courts. And they shall have power, subject to appeal according to law, to try without a jury, and to render judgment in all cases of criminal offenses coming within their respective jurisdictions, provided, however, that any person arrested upon a charge of having committed an offense in a district other than that in which he was arrested, may elect upon the consent of a duly authorized prosecuting officer, to be tried therefor in the district where he was arrested. Their criminal jurisdiction shall be co-extensive with the Judicial Circuit in which their respective districts are situated for the purpose of the arrest, examination, commitment and enlargement of parties accused, the issue of search warrants according to law, and to compel the attendance of witnesses.

§586. Every District Magistrate shall have power to issue a warrant for the arrest and examination of any person charged with an offense not within his jurisdiction, where the party accused is resident, or for the time being is found, within his district, and upon satisfactory evidence of the probable guilt of such person, to commit him to prison for trial at the ensuing term of the Supreme Court, or the Circuit Court of the Island.

§587. The Circuit Judges shall have power to countersign the warrant of any District Magistrate within their respective circuits, for the apprehension of any offender who may have fled beyond the limits of the district where the warrant may have been issued, and such warrant so countersigned may be served anywhere within the judicial circuit where the same may have been issued.

§588. The District Magistrates shall in like manner be empowered to countersign the warrant of arrest for any offender, which may have been issued by any other District Magistrate within the same judicial circuits, provided said offenders be found within the district of the Judge so countersigning said warrant.

§589. The criminal jurisdiction of the District Magistrates of Lihue, Island of Kauai; Honolulu, Island of Oahu; Wailuku and Lahaina, Island of Maui; Hilo, Hamakua, North Kohala and North Kona, Island of Hawaii; over all offenses which are within the jurisdiction of District Magistrates according to law, shall be and hereby is made co-extensive with the judicial circuits in which their respective districts are situated.

§590. Whenever any warrant of arrest has been issued by any Court of competent jurisdiction, and the accused party shall escape beyond the jurisdiction of such Court, it shall be lawful for the officer to whom such warrant shall have been directed, to pursue and arrest such accused party in any part of the Republic,

provided, that the warrant shall be first endorsed with proper words of authority from some Circuit Judge or District Justice in the island where the actual arrest shall be made.

§591. Any officer authorized to serve warrants at the place of arrest may also serve any warrant endorsed as aforesaid.

§592. The Supreme Court may from time to time, by general rules, prescribe forms for carrying Sections 590 and 591 into effect, and make all other needful regulations.

§593. The expenses of serving such warrant shall be adjusted by the Court originally issuing the warrant, and accounted for out of any fines and penalties in its possession.

§594. The several District Magistrates throughout the Republic shall have jurisdiction to hear and determine, subject to appeal, all complaints for any violation of the license laws, without limit in respect to the amount of penalty to be imposed for such violations.

§595. The several District Magistrates throughout the Republic shall have jurisdiction to hear and determine all complaints for any violation of Sections 134, 136 and 138 of Chapter 17 of the Penal Code, relating to violation of letters and postal laws.

#### PART II.—CRIMINAL JURISDICTION OF CIRCUIT COURTS.

§596. The several Circuit Courts shall have jurisdiction, but subject to appeal and exceptions to the Supreme Court, according to law, as follows:

*First:* Of all offenses and crimes cognizable under the authority of the Hawaiian laws, committed within their respective circuits, or transferred to them for trial by change of venue from some other Circuit Court, or committed on the high seas.

\* \* \* \* \*



*Third:* Of causes, civil or criminal, which may properly come before them on appeal from any other Court according to law.

§597. The Judges of the several Circuit Courts shall have power, in Chambers, within their respective jurisdictions, but subject to appeal to the Circuit and Supreme Courts according to law, as follows:

\* \* \* \* \*

*Tenth:* To enlarge on bail persons rightfully confined in allailable cases.

\* \* \* \* \*

*Twelfth:* To issue warrants for the apprehension in any part of the Republic, of any person accused under oath of a crime or misdemeanor committed within his jurisdiction, and to examine and commit such person to prison according to law, for trial.

§598. All defendants in criminal cases bound to appear at any Circuit Court which shall have failed to hold its term under the provisions of Section 1150 of the Civil Laws shall be bound to appear at the next term of said Court.

§599. The Judges of the several Circuit Courts of the Hawaiian Islands shall have power in Chambers to issue warrants for the arrest, in any part of the Hawaiian Islands, of any person accused under oath, of a crime or misdemeanor committed in any part of the Hawaiian Islands, and to examine and commit such accused person for trial, before the Circuit Court of the circuit in which the warrant is issued, or before any other Circuit Court of the Hawaiian Islands.

§600. The several Circuit Courts of the Hawaiian Islands are hereby given jurisdiction of all criminal cases that may arise in any part of the Hawaiian Islands.

§601. The Circuit Judges shall severally have power to issue warrants for the apprehension within their respective circuits

of any person accused, under oath, of a crime or misdemeanor and to examine and commit such person to prison for trial, to fix bail and generally to do and perform the duties of a committing Magistrate.

PART III.—CRIMINAL JURISDICTION OF THE SUPREME COURT.

§602. Any indictment pending in any Circuit Court of this Republic, for any felony, may be removed to the Supreme Court, sitting in Honolulu, within the Island of Oahu, and for all the islands of this Republic, upon motion of the Attorney-General, by consent of the defendant, if in the judgment of the Court the interests of justice will be subserved thereby.

§603. All motions for removal of indictments shall be in writing, with the reason therefor fully set forth.

§604. Witnesses required to attend the Supreme Court sitting in Honolulu, as aforesaid, who are not residents of the Island of Oahu, shall be paid four cents per mile for each mile actually traveled, and one dollar for each day of actual attendance.

§605. The Supreme Court shall make general rules relating to the custody and transmission of papers in the cases provided for in this Act.

NOTE TO CHAPTER 52.

PART I.

§584 is S. L. 1896, Act 40, §1. §585 is S. L. 1892, Ch. 57, §11. §586 is C. L. §917. §§587-588 are S. L. 1860, C. L. p. 504, P. C. Ch. 52 §5-9. §589 is S. L. 1896, Act 41. §§590-593 are S. L. 1868, C. L. p. 505. §594 is P. C. Ch. 52 §9. §595 is 1874, Ch. 26, C. L. p. 563.

PART II.

§§596-597 are extracts from S. L. 1892, Ch. 57 §§36-37. §598 is S. L. 1892, Ch. 57, §47. §§599-600 are P. G. Act 76. §601 is S. L. 1888, Ch. 52.

PART III.

§§602-605 are S. L. 1868, C. L. p. 244.

Territorial jurisdiction, see also P. L. §620 et seq.

For matters of jurisdiction common to both criminal and civil procedure, see Civil Laws, Chapters 79 and 80.

§590 does not apply to desertion of husband or wife, see P. L. §855.

P. C. Ch. 52, §§2-4 are omitted as they appear elsewhere in P. L.

Cases in Hawaiian Reports: Queen v. Young Quai, 8 Haw. 283.

## CHAPTER 53.

## CRIMINAL PROCEDURE.

## PART I.—CRIMINAL PROCEDURE IN DISTRICT COURTS.

§606. Upon complaint made to any District Magistrate of the commission of any offense within the jurisdiction of such Magistrate to hear and determine, he shall examine the complainant on oath, shall reduce the substance of the complaint to writing, and cause the same to be subscribed by the complainant, and, if it shall appear that such offense has been committed, the said Magistrate shall issue his warrant, reciting such complaint, and requiring the Marshal, or other officer to whom it is directed (except as provided in the next succeeding section), forthwith to arrest the accused and bring him before such Magistrate to be dealt with according to law; and in the same warrant may require the officer to summon such witnesses as shall be named therein to appear and give evidence at the trial. Such warrant may be in the following form:

To any Constable of the District of .....  
Island of ..... H. I.

You are hereby commanded, on the information of .....,  
verified by oath, forthwith to arrest and take the body of  
....., accused of ....., if he can be found, and  
forthwith have his body before me at the District Court room  
of the said district, at any time between the hours of .....  
A. M. and ..... P. M. of the ..... day of .....,  
A. D. .... (to answer to the said accusations, or to show  
cause why he should not be committed for trial at the Circuit

Court of the ..... Judicial Circuit.) And you are also commanded, having arrested the said ....., to summon as witnesses of accusation ....., if they can be found, and to make due return of your proceedings upon this writ.

Given under my hand this .... day of ....., A. D....  
 .....  
 District Magistrate of .....

§607. Where, from such complaint, it shall appear to such Magistrate that the offense charged therein is not of a serious nature, or not one for which a severe penalty should be imposed, and where the person complained against is so situated as to raise no presumption of his attempting to elude justice in the premises, such Magistrate may, in his discretion, (unless the complainant shall in writing request the immediate arrest of such alleged offender), issue his summons, wherein shall be recited the substance of such complaint, commanding such alleged offender to appear before him upon a time to be therein stated, not less than twenty-four hours from the time of service of summons, and then and there to answer such charge. Such summons shall contain a warning to the person summoned that failure to obey the same will render him liable to attachment for contempt.

§608. Such summons shall be served by handing the accused a copy thereof, and showing him the original, or, if he cannot be found, by leaving such copy, during business hours, at his usual place of business or employment, or by leaving such copy at his place of residence, at any reasonable hour, in charge of some person of discretion. Should the alleged offender fail to appear at the prescribed time and place, after having been so summoned, he may be attached for contempt, and dealt with accordingly.

§609. Such Magistrate may, for any cause which shall appear to him to be sufficient, at any time after the issue of such

summons, and by virtue of the complaint therein contained and recited, issue his warrant for the immediate arrest, upon such charge, of the person so summoned.

COMMITMENT.

§610. In all cases of arrest for crimes, or misdemeanors cognizable before a jury, the Magistrate in whose jurisdiction or on whose warrant the accused was arrested, shall upon the appearance of the accused proceed to consider whether there is probable cause to believe that a jury would upon the evidence adduced, convict the accused of the offense with which he is charged, he shall reduce to writing the substance of the evidence adduced, with the names of the witnesses, and if in his opinion the testimony do not warrant commitment for trial, he shall release the prisoner, noting that fact upon his docket; but if in his opinion there is probable cause to believe that conviction would take place before a jury, he shall make out and deliver to a constable a mittimus, which may be in the following form:

To . . . . ., or any other Constable of the District of . . . . . Island of . . . . . H. I.:

It appearing to my satisfaction that there is reason to believe that . . . . ., who was arrested for . . . . . on the information of . . . . . (or otherwise as the case may be) would be convicted upon indictment for the said offense:

You are commanded to deliver him, the said . . . . ., to the Sheriff of the Island of . . . . ., or his deputy, who is hereby authorized to commit him to the jail of the said Island for trial at the Circuit Court of the . . . . . Judicial Circuit, and have you then there this writ with full return of your proceedings thereon.

Given under my hand this . . . . day of . . . . ., A. D. . . . .  
 . . . . .

District Magistrate of . . . . .

In case of such commitment for trial, the committing Magistrate shall forward without delay to the Attorney-General a transcript of the evidence upon which the commitment is founded.

## PROCEDURE AGAINST CORPORATIONS

§611. Upon an information or presentment against a corporation, the Magistrate must issue a summons signed by him, with his name of office, requiring the corporation to appear before him at a specified time and place, to answer the charge.

§612. The summons must be served by delivering a copy thereof, and showing the original to the President or other head of the corporation, or to the Secretary, Treasurer or managing agent therefor.

§613. At the appointed time in the summons the Magistrate shall proceed to hear and try the case as in the case of a natural person.

§614. When a fine is imposed upon a corporation on conviction it may be collected by virtue of the order imposing it, by the Marshal or his deputy, or the Sheriff or his deputy, out of the real and personal property of such corporation, in the same manner as upon an execution in a civil action.

## PART II.—OF THE TIME FOR PRESENTING INDICTMENTS.

§615. In all cases of offenses against the laws of this Republic, triable only by a Court of Record, the accused shall be arraigned and prosecuted by an indictment by a legal prosecutor of the Republic, as soon after the commitment of the offense of which he is accused as may be expedient; provided always that the presentation of an indictment against an accused shall not be deferred beyond the term of the Court having jurisdic-

tion of the alleged offense next succeeding the commitment of the accused for trial by a Magistrate having competent jurisdiction therefor. And the trial shall then and there be proceeded with, unless the same shall be postponed by the Court as hereinafter provided.

§616. The necessary bills of indictment shall be duly prepared by a legal prosecuting officer, and be duly presented to the presiding Judge of the Court before the arraignment of the accused, and such Judge shall, after examination, certify upon each bill of indictment whether he finds the same a true bill or not.

§617. The failure to prosecute upon the indictment if found at the ensuing term of the Court, unless the venue be changed, or unless the cause be postponed by the Court, or a failure to sustain the indictment upon the law involved, or a verdict of not guilty by the jury, or the successive disagreement of two juries impaneled to try the cause, shall operate as an acquittal of the accused, and the Court shall order his discharge from custody.

§618. The Attorney-General or the Sheriffs on the several circuits shall furnish to the Clerk of the Court, three days before the first day of the term, a list of all criminal cases triable by jury at such term, that the calendar may be made up.

#### PART III.—DISCHARGE WITHOUT PROSECUTION.

§619. It shall be lawful for the Attorney-General, in respect of any person or persons now or hereafter imprisoned under committal for trial for any offense, to grant at any time a certificate under his hand in the form following:

To the Judges of the Supreme Court of the Hawaiian Islands,  
or any one of them:

This is to certify that I decline to present an indictment



against A. B. detained in the custody of the Marshal in the gaol at ..... under the warrant of C. D., Esq., District Magistrate of ....., upon a charge of .....

Given under my hand this ..... day of ....., 18..

E. F., Attorney-General.

Addressed to the Judges of the Supreme Court or any one of them, who shall thereupon by warrant under their or his hand in the form following:

To ....., Esq., Marshal of the Republic of Hawaii:

Whereas, A. B. is detained in your custody under the warrant of C. D., Esq., District Magistrate of ....., upon a charge of ....., and whereas it has been certified to us (or me) by His Excellency E. F., the Attorney-General of the Republic, that he declines to present any indictment against the said A. B., for the said offense; you are therefore hereby authorized and required forthwith to discharge the said A. B. from your custody upon the said warrant.

Given under our (or my) hand this....day of....., 18..

G. H.,

I. K.,

Judges (or Judge) of the Supreme Court.

Order and direct the Marshal or gaoler in whose custody any such prisoner shall be, immediately to discharge the prisoner therein mentioned from imprisonment, in respect of the offense mentioned in the said warrant.

#### PART IV.—VENUE, &C.

§620. The offense of any person who shall be an accessory either before or after the fact to any felony may be dealt with, enquired of, tried, determined and punished by any Court which shall have jurisdiction to try the principal felony or any felonies committed in any place, in which the act by reason whereof such person shall have become such accessory shall have been committed.

§621. The offense of polygamy may be dealt with, enquired of, tried, determined and punished in any jurisdiction within which the offender shall be apprehended or be in custody, in the same manner in all respects as if the offense had been actually committed within that jurisdiction.

§622. Whosoever shall receive any chattel, money, valuable security, or other property whatsoever, knowing the same to have been feloniously or unlawfully stolen, taken, obtained, converted, or disposed of, may (whether charged as an accessory after the fact of the felony, or with a substantive felony, or with a misdemeanor only) be dealt with, indicted, tried and punished in any jurisdiction in which he shall have or shall have had any such property in his possession, or in any jurisdiction in which the party guilty of the principal offense may by law be tried, in the same manner as such receiver may be dealt with, indicted against, tried and punished in the jurisdiction where he actually received such property.

§623. Whosoever shall steal any part of any ship which shall be in distress, or shall commit any other of the offenses enumerated in Section 6 of Chapter XXIII. of the Penal Code, may be indicted and tried before any Court of Record.

[NOTE.—P. C. Ch. 23 §6 was repealed by S. L. 1896, Act 35.]

§624. Whosoever shall commit any offense of forging or altering any matter whatsoever, or of offering, passing, negotiating, assigning or transferring any matter whatsoever, knowing the same to be forged or altered, may be dealt with, indicted, tried and punished in any jurisdiction in which he shall be apprehended or be in custody, in the same manner in all respects as if his offense had been actually committed in that jurisdiction. And every accessory before or after the fact to any such offense may be dealt with, indicted, tried and punished in any jurisdiction in which he shall be apprehended, or be in custody,

in the same manner in all respects as if his offense, and the offense of his principal, had been actually committed in such jurisdiction.

§625. Where any person shall tender, utter, or put off any false or counterfeit coin in one jurisdiction, and shall also tender, utter or put off any other false or counterfeit coin in any other jurisdiction, either on the day of such first mentioned tendering, uttering or putting off or within the space of ten days next ensuing, or where two or more persons acting in concert in different jurisdictions shall commit any offense against Chapter XXXI. of the Penal Code, every such offender may be dealt with, indicted, tried and punished, and the offense laid and charged to have been committed in any one of the said jurisdictions in the same manner in all respects as if the offense had been actually and wholly committed within one such jurisdiction.

§626. It shall not be necessary to state any venue in the body of any indictment, but the jurisdiction named in the margin thereof shall be taken to be the venue for all the facts stated in the body of such indictment; provided that in cases where local description is or hereafter shall be required, such local description shall be given in the body of the indictment.

§627. It shall be lawful for any Court of Record or Judge thereof, at any stage of any criminal proceedings depending therein, whether the venue be by law local or not, to order that the venue be changed, and to direct that the trial be had in Honolulu or in some particular Judicial Circuit; in such cases and for such reasons as the justice of the case may require, and subject to such conditions as the Court or Judge may, in its or his discretion, impose.

#### PART V.—JOINDER OF DEFENDANTS IN CERTAIN CASES.

§628. Any number of accessories, at different times to any felony, and any number of receivers, at different times, of the

whole or any part or parts of any property which shall at one time have been stolen, taken, extorted, obtained, embezzled, or otherwise disposed of in such a manner as to amount to a felony, may be charged with substantive felonies in the same indictment and may be tried together, notwithstanding the principal felon shall not be included in the same indictment, or shall not be in custody, or amenable to justice.

PART VI.—WHAT INDICTMENTS SHALL SUFFICE AND AVAIL.

§629. No indictment for any offense shall be held insufficient for want of the averment of any matter unnecessary to be proved, nor for the omission of the words “as appears upon the record,” or “as appears by the record,” or of the words “with force and arms,” or of the words “against the peace,” or for the insertion of the words “against the form of the statute,” instead of the words “against the form of the statute,” or vice versa, or for that any person mentioned in the indictment is designated by a name of office or other descriptive appellation, instead of his proper name, or for omitting to state the time at which the offense was committed in any case where time is not of the essence of the offense, or for stating the time imperfectly, or for stating the offense to have been committed on a day subsequent to the finding of the indictment or on an impossible day, or on a day that never happened, for want of a proper or perfect venue, or for want of a proper or formal conclusion, or for want of or imperfection in the addition of any defendant, or for want of the statement of the value or price of any matter or thing, or the amount of damage, or injury in any case where the value or price, or the amount of damage, or injury, is not of the essence of the offense.

§630. In any indictment for any felony or misdemeanor, wherein it shall be requisite to state the ownership of any property whatsoever, whether real or personal, which shall belong to or be in the possession of more than one person, whether such

persons be partners in trade, joint tenants, partners or tenants in common, it shall be sufficient to name one of such persons and to state such property to belong to the person so named, and another or others, as the case may be; and whenever in any indictment for any felony or misdemeanor it shall be necessary to mention for any purpose whatsoever any partners, joint tenants, parceners or tenants in common, it shall be sufficient to describe them in the manner aforesaid; and this provision shall be construed to extend to all joint stock companies and trustees.

§631. All property, real and personal, whereof any body corporate shall by law have the management, control or custody, shall, for the purpose of any indictment or proceeding against any other person for any offense committed on or in respect thereof, be deemed to be the property of such body corporate.

§632. In any indictment for murder or manslaughter or for being an accessory to any murder or manslaughter, it shall not be necessary to set forth the manner in which or the means by which the death of the deceased was caused, but it shall be sufficient in any indictment for murder to charge that the defendant did feloniously, willfully, and of his malice aforethought kill and murder the deceased; and it shall be sufficient in any indictment for manslaughter to charge that the defendant did feloniously kill and slay the deceased; and it shall be sufficient in any indictment against any accessory to any murder or manslaughter, to charge the principal with the murder or manslaughter (as the case may be) in the manner hereinbefore specified, and then to charge the defendant as an accessory in the manner heretofore used and accustomed.

§633. In any indictment for forging, altering, uttering or offering any instrument whatsoever, or for passing, negotiating, assigning or transferring, obtaining or attempting to obtain any property by false pretences, or for any offense against Chapter XXIII. of the Penal Code, it shall be sufficient where it shall be

necessary to allege an intent to defraud or injure to allege that the defendant did the act with intent to defraud or injure (as the case may be) without alleging an intent to defraud or injure any particular person, and in the case of obtaining or attempting to obtain property by false pretences without alleging any ownership of the money or other thing of value. And on the trial of any of the offenses in this section mentioned, it shall not be necessary to prove an intent on the part of the defendant to defraud or injure any particular person, but it shall be sufficient to prove that the defendant did the act charged with an intent to defraud or injure (as the case may be.)

§634. In any indictment for any offense committed after a previous conviction or convictions for any felony or misdemeanor, it shall be sufficient after charging the subsequent offense to state that the offender was at a certain time and place, or at certain times and places, convicted of felony or misdemeanor, and to state the substance and effect only, omitting the formal part of the indictment and conviction for the previous offense without otherwise describing the previous offense or offenses.

§635. In every indictment whatsoever in which it shall be necessary to make any averment as to any money or valuable security, and in every indictment for embezzlement, fraudulent application or fraudulent disposition where the offense shall relate to any valuable security, it shall be sufficient to describe such money or valuable security simply as money, without specifying any particular coin or valuable security. And such allegation so far as regards the description of the property, shall in all cases be sustained by proof of any amount of coin, and in the cases of the offenses hereinbefore in this section specially named of any valuable security, although the particular species of coin of which said amount was composed or the particular nature of the valuable security shall not be proved, and in the cases of the offenses so specially named and also in the case of obtain-

ing money or other property by false pretenses, by proof that the offender embezzled, fraudulently applied or disposed of any amount or obtained any piece of coin or any valuable security or any portion of the value thereof respectively, although such piece of coin or valuable security (as the case may be) may have been delivered to him in order that some part of the value thereof should be returned to the party delivering the same or to any other person, and such part shall have been returned accordingly.

§636. It shall be lawful to insert several counts in the same indictment against the same person for any number of distinct acts of stealing, not exceeding three, which may have been committed by him against the same person within the space of six months from the first to the last of such acts, and to prosecute thereon for all or any of them.

§637. If any indictment for stealing or for any fraudulent purpose, destroying, cancelling, obliterating or concealing the whole or any part of any document of title to lands, it shall be sufficient to allege such document to be or to contain evidence of the title or of part of the title of the person or of some one of the persons having an interest whether vested or contingent, legal or equitable, in the real estate to which the same relates, and to mention such real estate or some part thereof.

§638. In any indictment for any of the following offenses it shall not be necessary to allege that the instrument, document, article or thing in respect of which the offense is committed is the property of any person (that is to say), the offense of stealing any testamentary instrument; the offense of stealing any original document of any Court; the offense of stealing or of ripping, cutting, severing or breaking with intent to steal anything made of metal fixed in any square or street, or in any place dedicated to public use or ornament.

§639. For preventing difficulties in the prosecution of offenders in any case of embezzlement or fraudulent application or disposition by any person, it shall be lawful to charge in the indictment and proceed against the offender for any number of distinct acts of embezzlement, or of fraudulent application or disposition, not exceeding three, which may have been committed by him against the same person within the space of six months from the first to the last of such acts.

§640. In every case of larceny committed against the President, or embezzlement, fraudulent application or disposition committed against the President, of any chattel, money, or valuable security, it shall be lawful in the order of committal by the Justice before whom the offender shall be charged, and in the indictment to be preferred against the offender, to lay the property of such chattel, money, or valuable security as aforesaid in the President.

§641. In every case of stealing any chattel let to be used in or with any house or lodging, it shall be lawful to prefer an indictment in the common form as for larceny, and in every case of stealing any fixture so let as aforesaid to prefer an indictment in the same form as if the offender were not a tenant or lodger, and in either case to lay the property in the owner or person letting to hire.

§642. In any indictment containing a charge of feloniously stealing any property it shall be lawful to add a count or several counts for feloniously receiving the same or any part or parts thereof, knowing the same to have been stolen, and in any indictment for feloniously receiving any property knowing it to have been stolen, it shall be lawful to add a count for feloniously stealing the same.

§643. In any indictment for forging, altering, offering, uttering, disposing of, or for stealing, embezzling, extorting,



converting, disposing of, destroying or concealing, or for obtaining by false pretences any instrument, it shall be sufficient to describe such instrument by any name or designation by which the same may be usually known or by the purport thereof, without setting out any copy or fac-simile thereof or otherwise describing the same or the value thereof.

§644. In all other cases whenever it shall be necessary to make any averment in any indictment as to any instrument, whether the same consists wholly or in part of writing, print or figures, it shall be sufficient to describe such instrument by any name or designation by which the same may be usually known, or by the purport thereof, without setting out any copy or fac-simile of the whole or any part thereof.

§645. In any indictment for perjury or unlawfully, willfully, falsely, fraudulently, deceitfully, maliciously or corruptly, taking, making, signing or subscribing any oath, affirmation, declaration, affidavit, deposition, bill, answer, notice, certificate or other writing, it shall be sufficient to set forth the substance of the offense charged upon the defendant, and by what Court or before whom the oath, affirmation, declaration, affidavit, deposition, bill, answer, notice, certificate or other writing was taken, made, signed or subscribed, without setting forth the bill, answer, affirmation, information, declaration, or any part of any proceeding, either in law or in equity or other jurisdiction, and without setting forth the commission or authority of the Court or the person before whom such offense was committed.

§646. In every indictment for subornation of perjury or of corrupt bargaining or contracting with any person to commit willful and corrupt perjury, or for inciting, causing or procuring any person unlawfully, willfully, falsely, fraudulently, deceitfully, maliciously, corruptly, to take, make, sign or subscribe any oath, affirmation, declaration, affidavit, deposition, bill, answer, notice, certificate or other writing, it shall be sufficient

wherever such perjury or other offense aforesaid shall have been actually committed, to allege the offense of the person who actually committed such perjury or other offense in the manner hereinbefore mentioned, and then to allege that the defendant unlawfully, willfully, and corruptly did cause and procure the said person, the said offense, in manner and form aforesaid to do and commit; and wherever such perjury or other offense aforesaid shall not have been actually committed, it shall be sufficient to set forth the substance of the offense charged upon the defendant without setting forth or averring any of the matters or things hereinbefore rendered unnecessary to be set forth or averred in the case of willful and corrupt perjury.

PART VII.—OBJECTIONS TO INDICTMENTS, HOW TAKEN, POWER OF AMENDMENT.

§647. Every objection to any indictment for any defect apparent on the face thereof, shall be taken by demurrer or motion to quash such indictment before the accused has pleaded and not afterwards; and every Court before which any such objection shall be taken for any such defect may, if it be thought necessary, cause the indictment to be forthwith amended in such particular by some officer of the Court or other person, and thereupon the trial shall proceed as if no such defect had appeared; and no motion in arrest of judgment shall be allowed for any defect in any indictment which might have been taken advantage of by demurrer or motion to quash as aforesaid.

PART VIII.—POSTPONEMENT OF TRIAL, ETC.

§648. No person prosecuted shall be entitled as of right to traverse or postpone the trial of any indictment preferred against him, or to have time to plead or demur to any such indictment allowed him. Provided always, that if the Court before which any person is indicted shall, upon the application of such person or otherwise be of opinion that he ought to be

allowed a further time to plead, or demur, or to prepare for his defense, or otherwise, such Court may grant such further time to plead, or demur, or may adjourn the receiving or taking of the plea, or demurrer, and the trial (or as the case may be) the trial of such person to the next or any subsequent term of the Court, and upon such terms as to bail or otherwise as to the Court shall seem meet.

PART IX.—COURT FEES NOT PAYABLE BY DEFENDANTS.

§649. It shall not be lawful to take, demand, or receive any Court fees for the issuing of any process for or on behalf of any person charged with, or indicted for, any felony or as accessory thereto, or with or for any misdemeanor in any Court of criminal jurisdiction; nor shall it be lawful to take, demand or receive any fees from any such person for taking any recognizance of bail, or issuing any writ of habeas corpus, or recording any appearance, or plea to any information, or for discharging any recognizance taken from any such person, or surety or sureties for them, but all costs may be ordered to be paid by the person charged and convicted as part of the judgment.

PART X.—ARRAIGNMENT, PLEA, ETC.

§650. If any person being arraigned upon any indictment for any offense shall plead thereto a plea of "not guilty," he shall by such plea without any further form, be deemed to have put himself upon the country for trial, and the Court shall in the usual manner order a jury for the trial of such person accordingly.

§651. If any person being arraigned upon or charged with any offense, shall stand mute of malice, or will not answer directly to the indictment in every such case, it shall be lawful for the Court (if it shall so think fit) to order the proper officer to enter a plea of "not guilty" on behalf of such person, and the

plea so entered shall have the same force and effect as if such person had actually pleaded the same.

§652. If any person indicted for any offense shall be insane, and shall upon arraignment be found so to be by a jury lawfully impaneled for that purpose, so that such person cannot be tried upon such indictment, or if upon the trial of any person so indicted such person shall appear to the jury charged with such indictment to be insane, it shall be lawful for the Court before whom any such person shall be brought to be arraigned or tried as aforesaid, to direct such finding to be recorded, and thereupon to order such person to be kept in strict custody until the President's pleasure shall be known; and if any person charged with any offense shall be brought before any Court to be discharged for want of prosecution, and such person shall appear to be insane, it shall be lawful for such Court to order a jury to be impaneled to try the sanity of such person; and if the jury so impaneled shall find such person to be insane, it shall be lawful for the Court to order such person to be kept in strict custody in such place and in such manner as to such Court shall seem fit, until the President's pleasure shall be known; and in all cases of insanity so found, it shall be lawful for the President by and with the advice of his Cabinet to give such order for the safe custody of such person so found to be insane during the President's pleasure, in such place and in such manner as to him by and with such advice as aforesaid shall seem fit.

§653. No indictment shall be abated by reason of any dilatory plea of misnomer or want of addition, or of wrong addition of the party offering such plea, if the Court shall be satisfied by affidavit or otherwise of the truth of such plea, but in such case the Court shall forthwith cause the indictment to be amended according to the truth, and shall call upon such party to plead thereto and shall proceed as if no such dilatory plea had been pleaded.

§654. In any plea of *autrefois convict* or *autrefois acquit*, it shall be sufficient for the defendant to state that he has been lawfully convicted or acquitted (as the case may be) of the said offense charged in the indictment.

§655. The proceedings upon any indictment for committing any offense after a previous conviction or convictions, shall be as follows (that is to say): the offender shall in the first instance be arraigned upon so much only of the indictment as charges the subsequent offense; and if he plead not guilty, or if the Court order a plea of not guilty to be entered on his behalf, the jury shall be charged in the first instance to enquire concerning such subsequent offense only; and if they find him guilty or if on arraignment he plead guilty, he shall then and not before be asked whether he had been previously convicted as alleged in the indictment, and if he answer that he had been so previously convicted, the Court may proceed to sentence him accordingly; but if he deny that he had been so previously convicted or stand mute of malice, or will not answer directly to such question, the jury so in the first instance charged as aforesaid, or (if by reason of a plea of guilty in the first instance no such jury has been so charged) then a jury in like manner as in other cases shall be charged to enquire concerning such previous conviction or convictions; and in the case of a jury so charged in the first instance, it shall not be necessary to swear the jury again, but the oath already taken by them shall for all purposes be deemed to extend to such last mentioned enquiry. Provided, that if upon the trial of any person for any such subsequent offense such person shall give evidence of his good character, it shall be lawful for the prosecutor in answer thereto to give evidence of the conviction of such person for the previous offense or offenses before such verdict of guilty shall be returned; and the jury shall enquire concerning such previous conviction or convictions at the same time that they enquire concerning such subsequent offense.

P

§656. Any person indicted for a crime punishable with death shall, on demand upon the Clerk by himself or his counsel, have a list of the jurors returned delivered to him, and shall also have process to summon such witnesses as are necessary for his defense.

§657. In all cases of felony in which the party accused is unable to employ counsel for his defense, the Court may assign him counsel from among the licensed practitioners, who shall use every lawful exertion in his behalf without fee or reward, upon pain of contempt to the Court.

§658. Every native Hawaiian arraigned upon indictment for any offense shall, on demand upon the Attorney General, be furnished with a copy of the indictment in the Hawaiian language.

§659. The prosecuting attorney shall open the case, and first introduce his witnesses and proofs, and after the evidence for the defense has been presented, and the accused or his counsel has summed up and closed his case, the prosecuting attorney shall have the right to sum up the entire evidence and close the debate.

#### PART XI.—DEFENSE.

§660. All persons tried for any offense shall be admitted after the close of the case for the prosecution to make full answer and defense thereto by counsel or attorney.

#### PART XII.—VARIANCES AND AMENDMENT.

§661. If on the trial of any indictment there shall appear to be any variance between the statement in such indictment and the evidence offered in proof thereof, it shall and may be lawful for the Court before which the trial shall be had, if such Court shall consider such variance not material to the merits of

the case, and that the defendant cannot be prejudiced thereby in his defense on such merits, to order such indictment to be amended according to the proof in such part of the indictment, and in such manner as such Court shall think fit, on such terms as to postponing the trial to be had before the same or another jury as such Court shall think reasonable; and after any such amendment the trial shall proceed, whenever the same shall be proceeded with, in the same manner in all respects and with the same consequences, both with respect to the liability of witnesses to be informed against for perjury and otherwise, as if no variance had occurred; and in all such cases where the trial shall be so postponed, it shall be lawful for the Court to discharge the jury sworn from giving any verdict, and to cause to be endorsed on the indictment the words "jury discharged from giving a verdict." Provided, that in all such cases where the trial shall be so postponed as aforesaid, it shall be lawful for such Court to enlarge the bail of the defendant and the surety or sureties (if any) accordingly; in such cases the witnesses who may have been summoned to give evidence, shall be bound to attend to give evidence respectively, and the defendant shall be bound to attend to be tried at the time and place to which said trial shall be postponed without entering into any fresh bail bond, or being served with fresh process for that purpose, in such and the same manner as if the defendant originally bound and the witnesses summoned to appear and give evidence at the time and place to which such trial shall have been postponed. Provided also, that where any such trial shall be to be had before another jury, the Republic and the defendant shall respectively be entitled to the same challenges as they were respectively entitled to before the first jury was impaneled.

#### PART XIII.—VERDICT.

§662. In cases where it shall be given in evidence upon the trial of any person charged with any offense, that such person was insane at the time of the commission of such offense, and such person shall be acquitted, the jury shall be required to find

specially whether such person was insane at the time of the commission of such offense, and to declare whether such person was acquitted by them on account of such insanity, and if they shall find that said person was insane at the time of the committing of such offense, the Court before whom such trial shall be had shall order such person to be kept in strict custody in such place and in such manner as to the Court shall seem fit, until the President's pleasure shall be known; and it shall thereupon be lawful for the President, by and with the advice of his Cabinet Council, to give such order for the safe custody of such person so found to be insane during his pleasure, in such place and in such manner as to him shall seem fit.

§663. If on the trial of any person charged with felony or misdemeanor, it shall appear to the jury upon the evidence that the defendant did not complete the offense charged, but that he was guilty only of an attempt to commit the same, such person shall not by reason thereof be entitled to be acquitted, but the jury may return as their verdict that the defendant is not guilty of the felony or misdemeanor charged, but is guilty of an attempt to commit the same, and thereupon such person shall be liable to be punished in the same manner as if he had been convicted upon an indictment for attempting to commit the particular felony or misdemeanor charged in the indictment, and no person so tried as herein lastly mentioned shall be liable to be afterwards prosecuted for an attempt to commit the felony or misdemeanor for which he was so tried.

§664. If upon the trial of any person for any misdemeanor it shall appear that the facts given in evidence amount in law to a felony, such person shall not by reason thereof be entitled to be acquitted of such misdemeanor, and no person tried for such misdemeanor shall be liable to be afterwards prosecuted for felony on the same facts, unless the Court before which said trial may be had shall think fit in its discretion to discharge the jury from giving any verdict upon such trial, and to direct such



person to be proceeded against for felony, in which case such person may be dealt with in all respects as if he had not been put upon his trial for such misdemeanor.

§665. Under an indictment for robbery, larceny, or any offense of more than one degree, the jury may, when the evidence will not warrant a verdict of guilty in the degree for which the prisoner is indicted, return a verdict for any lesser degree of the same offense.

§666. If on the trial of any person charged with the offense of rape or sodomy, or with the offense of ravishing, carnally abusing any girl under the age of ten years, or with having sexual or carnal intercourse with any female of this Republic under the age of fourteen years, the jury shall not be satisfied that he is not guilty thereof, but shall be satisfied that he is guilty of an assault with intent to commit the same, then the jury may return as their verdict that he is not guilty of the offense so charged, and may find him guilty of an assault with intent to commit the same.

§667. If upon the trial of any person upon any indictment for robbery it shall appear to the jury that the defendant did not commit the crime of robbery, but that he did commit an assault with intent to rob, the defendant shall not by reason thereof be entitled to be acquitted, but the jury shall be at liberty to return as their verdict that the defendant is guilty of an assault with intent to rob; and thereupon the defendant shall be liable to be punished in the same manner as if he had been convicted upon an indictment for feloniously assaulting with intent to rob; and no person so tried as before lastly mentioned shall be liable to be afterwards prosecuted for an assault with intent to commit the robbery for which he was so tried.

§668. If upon the trial of any person indicted for embezzlement, it shall be proved that he took the property in question

in any such manner as to amount in law to larceny, he shall not by reason thereof be entitled to be acquitted, but the jury shall be at liberty to return as their verdict that such person is not guilty of embezzlement, but is guilty of larceny, and in either degree, and thereupon such person shall be liable to be punished in the same manner as if he had been convicted upon an indictment for such larceny in the degree found. And if upon the trial of any person informed against for larceny it shall be proved that he took the property in question in any such manner as to amount in law to embezzlement, he shall not by reason thereof be entitled to be acquitted, but the jury shall be at liberty to return as their verdict that such person is not guilty of larceny but is guilty of embezzlement and the charge thereof, and thereupon such person shall be liable to be punished in the same manner as if he had been convicted upon an indictment for such embezzlement in the degree found, or larceny as aforesaid, shall be liable to be afterwards prosecuted for larceny or embezzlement upon the same facts.

§669. If upon the trial of any person indicted for obtaining property by false pretences, it shall be proved that he obtained the property in question in any such manner as to amount in law to larceny, he shall not by reason thereof be entitled to be acquitted, and no person tried for such misdemeanor shall be liable to be afterwards prosecuted for larceny upon the same facts.

§670. If upon the trial of any indictment for larceny it shall appear that the property alleged in such indictment to have been stolen at one time was taken at different times, the prosecutor shall not by reason thereof be required to elect upon which taking he will proceed, unless it shall appear that there were more than three takings, or that more than the space of six months elapsed between the first and the last of such takings, and in either of such last of such mentioned cases, the prosecutor shall be required to elect to proceed for such number of takings

not exceeding three as appear to have taken place within the period of six months from the first to the last of such takings.

§671. If upon the trial of two or more persons indicted for jointly receiving any property, it shall be proved that one or more of such persons separately received any part or parts of such property, it shall be lawful for the jury to convict upon such indictment such of the said persons as shall be proved to have received any part or parts of such property.

§672. Where any indictment containing two or more counts, both for feloniously stealing and of receiving, shall have been preferred against any person, the prosecutor shall not be put to his election, but it shall be lawful for the jury who shall try the same to find a verdict of guilty either of stealing the property or of receiving the same or any part or parts thereof knowing the same to have been stolen; and if such indictment shall have been preferred against two or more persons, it shall be lawful for the jury who shall try the same to find all or any of the said persons guilty either of stealing the property or of receiving the same or any part or parts thereof knowing the same to have been stolen, or to find one or more of the said persons guilty of stealing the property, and the other or others of them guilty of receiving the same or any part or parts thereof knowing the same to have been stolen.

§673. If upon the trial of any person for being concerned in a riot or unlawful assembly as described in Section 382 of Chapter 38 of the Penal Laws, the jury shall not be satisfied that such person is guilty thereof, but shall be satisfied that he is guilty of any misdemeanor mentioned in the section next preceding Section 382, then the jury may return as their verdict that he is not guilty of the offense charged, but is guilty of such misdemeanor, and he may be punished accordingly.

§674. Under an indictment for murder or manslaughter, the jury may return a verdict of manslaughter in either degree or for assault and battery, as the facts proved will warrant.

§675. Where upon the trial of any person charged with the offense of adultery, sufficient proof of marriage shall not be adduced, such person shall not therefore be acquitted, but the Court or jury before whom such party is charged may, if the facts proved will so warrant, find the accused guilty of fornication, and such accused person shall thereupon be punished accordingly.

PART XIII.—EVIDENCE IN CERTAIN CASES.

§676. Where any person shall be proceeded against before any Court of criminal jurisdiction for a subsequent offense in either case committed after any previous summary conviction or convictions, a copy of any such conviction certified by the proper officer of the Court to which such summary conviction shall have been returned or proved to be a true copy, shall be sufficient evidence to prove a conviction of the former offense and the conviction shall be presumed to have been unappealed against until the contrary be shown.

§677. All persons under trial shall be entitled at the time of their trial to inspect without fee or reward all depositions which have been taken against them, and delivered in manner by law required to the proper officer of the Court before which such trial shall be had, or copies of such depositions.

§678. Depositions taken in the preliminary or other investigation of any charge against any person, may be read as evidence in the prosecution of the same or any other offense whatever, upon the like proof and in the same manner in all respects as they may according to the law now in force be read in the prosecution of the offense with which said person was charged when such depositions were taken.

§679. Where upon the trial of any person charged with any offense against Chapter XXXI. of the Penal Code, it shall be necessary to prove that any coin produced in evidence against

such person is false or counterfeit, by the evidence of any credible witness.

PART XIV.—AMENDMENTS NOT TO PREJUDICE AFTER VERDICT.

§680. Every verdict and judgment which shall be given after the making of any amendment under this Act, shall be of the same force and effect in all respects as if the indictment had originally been in the same form in which it was after such amendment was made.

§681. If it shall become necessary at any time for any purpose whatsoever to draw up a formal record in any case where any amendment shall have been made under this Act, such record shall be drawn up in the form in which the indictment was, after such amendment was made, without taking any notice of the fact of such amendment having been made.

PART XV.—OF JUDGMENT AND EXECUTION.

§682. The verdict of the jury or the decision of the Court, as the case may be, shall, subject to arrest of judgment, found the sentence to be passed in open Court, by either of the Justices, pursuant to the penalties of the law charged and found to have been violated, subject to the executive clemency, or a motion in arrest of execution for cause.

§683. Any Judge of a Court of Record may, for cause shown to his satisfaction, respite any convicted criminal for any length of time, sufficient for the purposes of mercy, or not to work injury to innocent third parties.

§684. No person at the time insane, and no woman at the time quick with child, shall suffer capital punishment; neither shall any child suffer such punishment who has not evinced a knowledge of the distinction between right and wrong.

§685. In all cases where the law of this Republic awards the punishment of death, there shall always intervene at least forty-eight hours between the conviction and the sentence; and at least fourteen days between the sentence and the execution.

§686. The Marshal, or some one deputed by him, shall inflict the punishment of death, by hanging the criminal by the neck until dead, when the body shall be disposed of pursuant to the direction of the Court. No capital punishment shall be so inflicted until the warrant for that purpose shall be signed by the President; nor shall such punishment be inflicted after the President's pardon.

§687. In all criminal cases where the punishment is less than capital, the Court before whom the conviction is had shall proceed as soon thereafter as may be to pass sentence according to law, which sentence shall be recorded by the Clerk, and certified to the Marshal or his deputy in the order for imprisonment or other punishment, as the case may be.

#### NOTE TO CHAPTER 53.

§§606-610 are S. L. 1892, Ch. 57, §§18-22.

§§611-614 are P. G. Act 24.

§§615-687 are S. L. 1876, Ch. 40, C. L. p. 338 et seq.

P. C. Ch. 53, entitled "Rewards to Sheriffs, Constables and other Prosecutors" was repealed by S. L. 1888, Ch. 5.

Cases in Hawaiian Reports: *R. v. Kekoa*, 5 Haw. 623; *R. v. Robertson*, 6 Haw. 727; *R. v. Gibson*, 6 Haw. 312; *Rex v. McGiffin*, 7 Haw. 113; *R. v. Chop Tin*, 7 Haw. 384; *Rex v. Mo Sow*, 7 Haw. 736; *Rex v. Ho Fon*, 7 Haw. 759; *R. v. Bush*, 8 Haw. 275; *Gov't v. Hering*, 9 Haw. 187; *Gov't v. Smith*, 9 Haw. 262; *Gov't v. Gertz*, 9 Haw. 290; *Gov't v. Mossman*, 9 Haw. 361; *Gov't v. Caecires*, 9 Haw. 525; *Gov't v. Oishi*, 9 Haw. 643.

## CHAPTER 54.

## CARRYING DEADLY WEAPONS.

§688. Any person not authorized by law, who shall carry, or be found armed with, any bowie-knife, sword-cane, pistol, air-gun, slung-shot, or other deadly weapon, shall be liable to a fine of no more than thirty, and no less than ten dollars, or in default of payment of such fine, to imprisonment at hard labor for a term not exceeding two months, and no less than fifteen days, upon conviction of such offense before any district magistrate, unless good cause be shown for having such dangerous weapons; and any such person may be immediately arrested without warrant by the Marshal, or any Sheriff, Constable, or other officer or person, and be lodged in prison until he can be taken before such Magistrate.

§689. The following persons are hereby declared to be authorized to bear arms, viz.: All persons holding official, military or naval rank, either under this Government, or that of any nation at peace with this Republic, when worn for legitimate purposes.

## NOTE TO CHAPTER 54.

§§688-689 are P. C. Ch. 54 unaltered.

Cases in Hawaiian Reports: R. v. Clark, 10 Haw. 585.

## CHAPTER 55.

## LICENSES.

## PART I.—GENERAL PROVISIONS.

§690. The Minister of the Interior may, upon the application of any person, issue to such applicant any license hereinafter enumerated, upon the terms and conditions hereinafter set forth.

Except as otherwise herein provided, a license granted under this Act shall only authorize the carrying on of the business licensed at the place indicated in the license. Except in case of removal, and upon the written consent of the Minister endorsed thereon.

§691. Wherever in this Act the word "Minister" is used, it shall refer to and mean the Minister of the Department of the Interior of the Republic of Hawaii.

§692. From and after the date of the passage of this Act, all licenses issued for carrying on the several businesses, or doing the acts herein enumerated, shall be issued by the Minister of the Interior in accordance with the terms and conditions and for the fees herein enumerated, for the respective terms of one year from the several dates of issue. The carrying on of any business, or the doing of any act herein enumerated, except upon obtaining a license in conformity with the provisions of this Act, is hereby forbidden.

§693. Any person or persons who shall after the date of the passage of this Act engage in or carry on any business, or do



any act herein enumerated, the engaging in or doing which is herein required to be licensed, without first obtaining a license issued in conformity with the provisions of this Act; or who shall sell any goods, wares, merchandise, produce or thing of value, contrary to the terms of this Act; or who shall violate or fail to observe any of the provisions of this Act, shall be guilty of a misdemeanor, and upon conviction shall, unless otherwise herein provided, be fined a sum not less than the annual fee, and not more than twice the annual fee herein prescribed for the carrying on of such business, or the doing of such act.

Provided, however, that any person now carrying on business under an existing license may continue to do so until the expiration of such license, subject to the terms, conditions and penalties prescribed in the several Acts under which such licenses are severally issued, notwithstanding the repeal of such Acts by this Act.

§694. Jurisdiction is hereby conferred upon all District Magistrates to hear and decide all cases arising under this Act in their respective jurisdictions.

§695. No license shall be issued under this Act until the full fee required herein shall have been paid in advance for the term of one year.

§696. No license issued hereunder shall be transferable.

## PART II.—ALCOHOL.

§697. Wherever in this Act the words "methylated spirits" are used, they shall mean ethylic alcohol to which has been added at least one-ninth its bulk of pyroxylic spirits.

Wherever in this Act the word "alcohol" is used, it shall mean the ordinary alcohol of commerce known as ethylic alcohol.

§698. The Minister of the Interior is hereby authorized to grant to any holder of a license to import and sell poisonous or other drugs, a license to sell methylated spirits and alcohol. The annual fee for such license shall be the sum of fifty dollars.

§699. Before granting said license, a good and sufficient bond to the Minister in the sum of one thousand dollars, secured in not less than double the amount of the penalty, shall be required. The condition of the bond shall be, that the holder of said license shall observe and comply with the provisions of Sections 702 and 703 of this Act.

The Minister is authorized to require any other conditions or security to insure the due observance of this Act.

§700. All importations of alcohol and preparations thereof and of methylated spirits, by or for a license under this Act, shall be sent direct from the importing vessel to the Custom House for inspection.

The Collector-General of Customs is hereby authorized to permit holders of the licenses herein provided to withdraw methylated spirits from the Custom House upon payment of a duty of one dollar per gallon.

The Collector-General shall cause such alcohol to be methylated in the Custom House, if such process has not already taken place, and to be examined and passed upon by the Government Chemist, or other officer appointed for the purpose, who shall previous to withdrawal certify that the same has been properly methylated as required by this Act.

§701. The Collector-General of Customs is hereby authorized to permit any holder of a license herein provided for, to withdraw not more than 150 gallons of alcohol in any one year, from the Custom House, upon the payment of two dollars per gallon duty.

Provided, however, that the 150 gallons so to be withdrawn shall only be used by said licensee for medicinal purposes, or for sale to duly licensed physicians.

And further provided, that all alcohol in excess of said 150 gallons that may be so withdrawn by said licensee, shall pay a full spirit duty, according to its strength, as provided by law for spirits of like strength.

§702. The holders of licenses for the sale of methylated spirits and alcohol under this Act are hereby prohibited from selling alcohol to any person but a duly licensed physician; and no greater quantity than one gallon at any one sale shall be sold to any such physician.

§703. It shall be incumbent upon any holder of a license under this Act to keep a book in which he shall write or cause to be written down the quantity of alcohol sold at each sale, the date of such sale, the name of the physician to whom the alcohol was sold, also the quantities consumed by the licensee and the purposes, itemized in detail, for which it was used. Such book, and the quantity of alcohol in possession of the licensee, shall always be accessible for inspection by any clerk or officer of the Government whom the Minister of the Interior may appoint to perform such inspection.

It shall also be incumbent upon any holder of a license under this Act during the first week of every month to file with the Minister of the Interior a sworn statement, showing the amount of alcohol on hand at the beginning of the preceding month, the quantity sold during the month, to whom, the quantity consumed by the licensee, and also the amount remaining on hand at the end of such month.

§704. Any person who shall be convicted of selling or furnishing methylated spirits or alcohol without a license to sell the same, shall be liable to a fine of not less than one hundred nor more than two hundred and fifty dollars.

Any person holding a license under this Act who shall violate or fail to observe any of the provisions herein contained, shall for the first offense be fined not to exceed one hundred dollars;

and for the second offense be fined not to exceed two hundred and fifty dollars, and the license shall be forfeited, and the penalty named in the said bond shall at once become due.

PART III.—STOCK AND SHARE BUSINESS.

§705. The annual fee for carrying on a stock and share business be one hundred dollars.

§706. The term “stock and share business” for the purposes of this Act, shall mean the buying or selling of corporation stocks or shares for a commission or other compensation or reward.

PART IV.—AWA.

•  
§707. The Minister of the Interior is authorized to sell to the highest bidder at public auction, between the first and seventh day of December in each and every year, licenses to sell awa for each taxation district in the Republic of Hawaii.

Each such license shall be for the term of one year from the first day of January next ensuing.

§708. The Licenses for the Island of Oahu shall be sold under the direction of the Minister at the front entrance of the Executive Building, or at such other place as he may direct; and on the other Islands they shall be sold by the Sheriffs or their Deputies, in the respective districts for which they are to be granted.

§709. The time and place of sale shall be duly advertised in both the English and Hawaiian languages, in some newspaper published on the island where the license is to be sold, if any is published there; and on the islands other than Oahu, posted in at least three prominent places in each of the districts where the sales are to be held.

§710. The upset price for such license at public auction shall be as follows:

For the District of Honolulu, one thousand dollars;

For the Districts of Hilo and Wailuku, five hundred dollars each, and for the District of Lahaina, two hundred and fifty dollars, and one hundred dollars for each other District.

§711. A cash deposit of twenty-five per cent. of the amount of the bid shall be required upon the fall of the hammer; said deposit to be forfeited to the Government if the full amount of the bid is not paid within five days from the day of sale.

§712. In case of failure to sell any license, or of such forfeiture, the license shall be again advertised, and after reasonable notice, again sold at public auction, at the upset price provided for in the District for which it is to be granted.

§713. No cultivator of Awa shall sell Awa to any person not holding a license to sell Awa, except for exportation.

PART V.—AUCTION.

§714. The annual fee for a license to sell goods, wares and merchandise or other property at auction, shall be six hundred dollars for the District of Honolulu, and fifteen dollars for each other taxation district.

§715. An auction license shall be issued only to citizens of the Republic, and to citizens or subjects of countries having treaty relations with the Republic of Hawaii.

§716. Every auctioneer shall keep and preserve a record book in which shall be entered.

1. A detail list and description of the property received for sale;

Q

2. The name of the person from whom, or on account of whom the same is received;
3. The date upon which the same is received;
4. The date upon which the same is sold;
5. The price for which each article is sold;
6. The name of the person or persons to whom each article is sold; which record shall, during the regular business hours be open to the inspection of any person desiring to see the same. Every such entry shall be made immediately after each transaction required to be recorded.

§717. Every person, upon receiving an auction license, shall give a bond to the Minister of the Interior in the penal sum of three thousand dollars, if the license be for the District of Honolulu, and in the penal sum of five hundred dollars for other Districts, with good and sufficient surety or sureties to be approved by the Minister of the Interior, conditioned.

1. That he will faithfully and truly keep the records by this Act required to be kept.

2. That he will faithfully, promptly and truly account to all persons for whom he may sell property, and promptly pay to them all sums received by him for sales of the same, after deducting therefrom his commissions and expenses.

3. That he will not sell goods, wares, merchandise or other property, except at public auction.

4. That he will otherwise in all things conform to the laws relating to auctioneers.

§718. The Minister, or by his written consent, any person whose property is sold by any auctioneer, concerning which property a record shall not have been kept as required by this Act; or concerning which such auctioneer shall otherwise have failed to fulfill the terms of his said bond, may prosecute such auctioneer under his bond, and recover thereon any actual loss caused to him or sum due to him by such auctioneer, and also

the sum of five dollars (\$5) to the use of the Treasury for each item by this Act required to be entered in such record which is omitted therefrom, or which is entered therein incorrectly; and the license of such auctioneer may, in the discretion of any Judge or Court, be cancelled.

§719. In case suit on such bond shall be brought by any person other than the Minister, such suit shall be in the name and at the sole cost, charge and expense of such plaintiff.

§720. Every auctioneer may charge a commission of not more than five per cent. upon all sales and collections made by him; and the actual amounts paid by him for advertising the sale of any property sold, and any other expenses that may be especially agreed upon between him and the owner of the property to be sold, and may deduct such commission and expenses from the proceeds of any such sale.

§721. Every auctioneer may sue in his own name any person purchasing property sold by him at auction, whether to enforce specific performance of the sale or to collect the purchase price thereof.

§722. Nothing in this Act, or in any law relating to Auction Licenses, shall be construed to extend to or affect sales at auction made by the Marshal or any Sheriff, Deputy Sheriff, Constable, Pound Master, Tax Collector, or other public officer; or by any Executor, Administrator, Guardian, Assignee, or other person who may be required or authorized by law to sell any property at auction, and who shall under such authority so sell such property.

§723. Any auctioneer may appoint any agent or assistant to act for him in the conduct of his auction business, for all of the acts of whom he shall be responsible in the same manner as though they were done personally by himself.

## PART VI.—BANKING.

§724. The annual fee for a Banking License shall be seven hundred and fifty dollars.

§725. The term "Banking" for the purposes of this Act, shall mean the engaging in, buying or selling drafts or bills of exchange on banks or persons in other countries, or the receiving of deposits and paying of checks thereon.

Any person holding a Banking License may also under such license loan his own money, or collect for, or receive, or take the money of another, and loan or advance the same to another, or others, charging a higher rate of interest than is allowed to the depositor; or may loan the moneys of another, or negotiate a loan to or from another, for a commission or other compensation.

## PART VII.—BILLIARDS AND BOWLING ALLEYS.

§726. The annual fee for a license to keep a Billiard Table or a Bowling Alley, to be used for hire or pay, shall be twenty-five dollars for each such table or alley.

§727. The Minister shall have power to prescribe such regulations for the keeping of Billiard Tables and Bowling Alleys as he may deem necessary and proper for the public good; and the violation of any such regulations shall, in the discretion of the Court, work a forfeiture of the license.

§728. Nothing herein contained shall be construed as applying to any Billiard Table or Bowling Alley kept by any person for private use.

## PART VIII.—BOATS AND BOATMEN.

§729. The annual fee for a license to ply a boat for hire in the harbor of Honolulu, Lahaina, Hilo or Kahului, shall be eight dollars for every boat with four or more oars; and four dollars for every boat with less than four oars.



§730. The owner of any boat licensed for the harbor of Honolulu, shall be entitled, if hired on time, to charge one dollar for each passenger for the first hour, and fifty cents for each succeeding hour, if the boat have four or more oars; and only half of such fare if the boat has less than four oars.

If hired by distance, twenty-cents for each passenger to or from any ship or point within the inner buoy; fifty cents to or from any ship or point between the inner and outer buoys; and one dollar to and from any ship or point in the anchorage outside of the buoys, if the boat have four oars; and half of said fares if the boat have less than four oars.

Provided always, that if the boat shall be detained by any passenger alongside of any ship or at any point over fifteen minutes, the owner shall be entitled to charge fifty cents additional for every half hour or portion thereof of such detention.

§731. Every person hiring any such boat shall be entitled to carry with him, free of charge, one hundred pounds of baggage or goods, and no more; and for all extra baggage or goods he shall pay according to agreement with the person plying the boat.

§732. The owner of any licensed boat shall, upon the written order of the Minister of the Interior, furnish such boat, with the proper number of oarsmen, for the public service, at the rate of four dollars per day for any boat with four oars, and two dollars per day for any boat with less than four oars.

§733. The owner of every licensed boat shall have and keep the number of her license painted conspicuously upon both of her bows.

§734. The annual fee for a license to engage in the business of boatman in any boat to be used for hire in the harbor of Honolulu, shall be one dollar.

§735. Every licensed boatman shall provide himself with a badge upon which must be plainly marked a number, which

badge must at all times when the boatman is employed, be conspicuously displayed. Such badges shall be furnished by the Minister at cost.

§736. The Minister may from time to time make rules to be observed by the licensed boats and boatmen, which rules shall be published in some newspaper, and shall then have the force and effect of laws.

§737. Any person who shall act as a boatman in any boat plying for hire in the harbor of Honolulu without a license; or who, being licensed, shall violate or fail to observe any of the requirements of this Act, or of the rules prescribed by the Minister under this Act;

Or any owner or person in charge of a licensed boat; who shall refuse to take a passenger at the rates herein prescribed;

Or who shall charge any person more than said rates;

Or who shall knowingly convey any woman on board of any vessel for the purposes of prostitution; or any person flying from the Republic to escape justice, or the payment of his debts;

Or who shall assist with his boat any sailor deserting from any vessel;

Or who shall communicate with any vessel placed under quarantine, shall be fined not less than five nor more than fifty dollars; and in the discretion of the Court the license of such boatman to ply such boat may be cancelled.

Any person plying a boat for hire in the harbor of Honolulu, Lahaina, Hilo or Kahului, without being licensed, shall be fined not less than five nor more than fifty dollars.

#### PART IX.—BUTCHER—BEEF.

§738. The annual fee for a license to slaughter and sell beef shall be one hundred dollars for the District of Honolulu, and twenty dollars for all other districts.

§739. The annual fee for a license to sell beef in the District of Honolulu shall be twenty dollars.

§740. Upon granting such a license, the Minister shall exact from the licensee a bond in the penal sum of five hundred dollars, with good and sufficient surety, to be approved by the Minister, conditioned that such licensee will keep a full and accurate record concerning every animal which he may purchase, kill or sell; and that he will at all times during regular business hours keep such record open for the inspection of all who may desire to examine the same.

Such record shall contain:

1. The sex of the animal.
2. The brand or brands on the animal, stating the position on the animal, of such brand.
3. The principal color or colors of the animal.
4. The name of the person or persons who sold the animal to him.
5. The date when the animal was sold to him.
6. The date when the animal was delivered to him.
7. The date when the animal was killed.

§741. The Minister, or with his written consent, any person owning any animal purchased, sold or killed by any licensed butcher, concerning which a record as prescribed by this Act has not been kept, may prosecute such licensed butcher under his bond and recover thereon, to the benefit of the Treasury, the sum of not less than five dollars nor more than fifty dollars, for each item by this Act required to be entered in such record which is omitted therefrom, or which is entered therein incorrectly; and the license of such butcher may, in the discretion of any Judge or Court, be cancelled.

## PART X.—BUTCHER—PORK.

§742. The annual fee for a license to slaughter and sell pork shall be forty dollars for the District of Honolulu, and twenty dollars for all other districts.

§743. The annual fee for a license to sell pork in the District of Honolulu shall be twenty dollars.

§744. The provisions of the last two preceding sections, shall not be held to apply to the sale of pork which is "kaluaed" or cooked in the Hawaiian style.

## PART XI.—COMMERCIAL TRAVELERS.

§745. The annual fee for a license to solicit or order, or sell goods, wares or merchandise by sample, by any person representing any foreign house, company, or corporation which does not hold a merchandise license, shall be five hundred dollars for the Island of Oahu, and two hundred and fifty dollars for each other Island of the Republic; Oahu excepted.

## PART XII.—FIRE-ARMS.

§746. The annual fee for a license to hunt with fire-arms upon the Island of Oahu, shall be five dollars.

The Minister may, in his discretion, refuse to issue a license to hunt with fire-arms under this Act, to any person who has been convicted of violating any of the provisions of any law for the protection of game.

§747. Any person who shall hunt in said Island, with fire-arms, without a license under this Act, allowing him so to do; or who, being licensed to hunt, shall hunt with any unlicensed fire-arm, shall be fined not less than five nor more than fifty dollars.

§748. Except as hereinafter otherwise provided, the annual fee for a license to possess, carry or use a pistol, rifle, carbine, shotgun or other fire-arm, shall be one dollar for each such fire-arm.

§749. Except as hereinafter provided, no fire-arm shall be possessed, carried or used in the Republic without a license issued under this Act.

§750. Each such license shall enumerate:

1. The name of the licensee, his nationality and residence, whether or not he is a member of the Police, Citizens' Guard or any military organization and if so, what organization, giving the company or squad;
2. The character of the fire-arm licensed;
3. The name of the maker;
4. The maker's number;
5. The calibre of the fire-arm.

§751. Nothing herein contained shall require a license to be taken out for any single-barrel muzzle-loading shotgun in actual use on any rice plantation for the purpose of scaring away birds from the rice fields.

§752. All members in good and regular standing, of the Police Force, of the Citizens' Guard, or of any legally authorized military organization, shall be exempted from the payment of any fee for a license or licenses to possess, carry or use fire-arms, issued under this Act; but in order to secure exemption they shall produce to the Minister a certificate from the commanding officer of the organization to which they belong, certifying to such membership, and to the description of such fire-arm or fire-arms.

§753. For the purpose of convenience, and to prevent the necessity of sending arms to Oahu, any resident of any other

island may forward, through the Sheriff of the island upon which he resides, an application for a license, upon a blank to be provided by the Minister for such purpose, which application shall set forth the facts hereinbefore required to be enumerated in the license.

Upon receipt of such application, countersigned by the Sheriff of the island from which it comes, the Minister shall issue a license in conformity herewith, and forward the same to the Sheriff from whom it was received, who shall deliver it to the licensee.

§754. The existence of any unlicensed fire-arm in the room, building, or upon the premises of any person, shall be *prima facie* evidence that such fire-arm is in the possession of the person owning, renting, leasing or occupying the room, building or premises in or upon which such fire-arm is found.

§755. Any person who shall possess, carry, or use any fire-arm, without a license so to do under this Act, shall be fined not less than five nor more than one hundred dollars for each unlicensed fire-arm possessed, carried or used by him, and such or any unlicensed fire-arm shall be forfeited to the Government.

#### PART XIII.—LIVERY STABLE.

§756. The annual fee for a license to carry on the business of a livery stable shall be fifty dollars for the District of Honolulu, and twenty-five dollars for the Districts of Wailuku and Hilo.

#### PART XIV.—LODGING OR TENEMENT HOUSE; HOTELS, BOARDING HOUSES AND RESTAURANTS.

§757. The annual fee for a license to keep a lodging or tenement house shall be two dollars.

§758. The annual fee for a license to keep a hotel, boarding house or restaurant shall be fifty dollars.

§759. No license shall be issued for a lodging or tenement house, hotel, boarding house or restaurant, until the applicant shall secure from the Board of Health, and present to the Minister, a certificate setting forth that an agent of the Board has examined the house or houses proposed to be used for such purposes, with a description thereof sufficient to identify and locate the same; and that the same are in good sanitary condition and suitable to be used for such purpose; and stating the number of persons which, by law, can be lodged therein.

§760. A lodging or tenement house, hotel, boarding house, or restaurant license shall be issued upon the following express conditions, which shall be incorporated in the license, viz.:

1. That the licensee shall not keep a noisy or disorderly house;
2. That no prostitute shall be allowed to reside therein or resort thereto;
3. That no intoxicating liquor shall be furnished or sold therein, except as authorized by law;
4. That no more persons shall at any time be lodged therein than are permitted by the license;
5. That the buildings and premises licensed shall be kept in good sanitary condition, in accordance with law and with the orders of the agent of the Board of Health;
6. That the police and agents of the Board of Health shall at all times have access thereto for purposes of inspection;
7. That no gaming shall be allowed therein.

§761. Any person who shall keep a lodging or tenement house, hotel, boarding house or restaurant without a license under this Act; or who, holding a license, shall violate or fail to observe any of the requirements or condition of this Act or of his license, shall be fined not less than ten nor more than one hundred dollars, and the Court, in its discretion, may cancel his license.

§762. Nothing in this Act contained shall be construed to prevent a private family from incidentally taking not more than three boarders or lodgers without taking out a license hereunder.

§763. The Minister may also, in his discretion, permit hotels at which both meals and lodgings are furnished, at points other than in Honolulu, where they are a public convenience, to be carried on without a license under this Act.

PART XV.—MERCHANDISE.

§764. The annual fee for a license to sell imported goods, wares and merchandise, to be known as a "Merchandise License," shall be as follows:

If the annual gross sales for the previous twelve months, including tobacco, cigars and cigarettes, were or are estimated to be for the succeeding twelve months, less than twenty thousand dollars, the fee shall be fifty dollars. If twenty thousand dollars or over, the fee shall be three-eighths ( $\frac{3}{8}$ ) of one per cent. of the annual gross sales.

§765. Any person desirous of obtaining a license to sell imported goods, wares or merchandise, shall apply in writing to the Minister, setting forth under oath the following facts, viz.:

1. His name and nationality, if the application is in the name of a corporation or firm, or store name; such name as well as that of the applicant in person shall appear in the heading and only an officer of a corporation and a member or other person authorized or empowered by letter to sign a firm name shall be allowed to sign or swear to an application.

2. The location where the licensed business is to be carried on.

3. The nature of the business and the kind of articles which he intends to sell.

4. That he is not a commercial traveler nor an agent of any foreign house, temporarily in this Republic for the purpose of soliciting orders.



5. Whether he has previously held a merchandise license, and if so, the number and date of the last such license held by him, the location of his place of business, and the amount of the gross sales made by or for him during the preceding twelve months.

If he has not previously held a merchandise license, he shall state the amount of sales which he expects to make during the succeeding twelve months.

§766. No person holding a merchandise license under this Act shall permit any foreign commercial traveler, or transient, or other agent to work under his name or license.

§767. No person holding a merchandise license shall be permitted by virtue thereof, to sell or furnish opium or any preparation thereof, nor any poisonous drugs, nor alcohol, spirituous liquors or other intoxicating drink.

§768. Any person who shall sell imported goods, wares or merchandise without a license under this Act; or who shall make any false statement in his application for a license; or who, holding such license, shall sell any article not permitted by his license to be sold; or who shall otherwise violate or fail to observe any of the terms, conditions or requirements of this Act, or of his license, shall be fined not exceeding one thousand dollars, or imprisoned at hard labor not exceeding six months, and in the discretion of the Court his license may be cancelled.

#### PART XVI.—MILK.

§769. The annual fee for a license to sell milk in the District of Honolulu shall be twenty-five dollars; for the town of Hilo, which for the purposes of this Act shall be limited to a circle, the radius of which shall be two miles from the Court House, shall be fifteen dollars; and for all other districts, five dollars.

§770. Any person who shall sell, or offer for sale, any milk which has been adulterated by the addition of water or other

substance; or from which the cream has been skimmed or separated, unless the same is specifically and openly stated to be skimmed milk, shall be fined not more than fifty dollars.

§771. Any police officer or agent of the Board of Health shall have power to inspect and test any milk sold or offered for sale, and to confiscate any adulterated milk which he may find.

PART XVII.—NOTARIES PUBLIC, AGENTS TO TAKE ACKNOWLEDGMENTS, AGENTS TO ACKNOWLEDGE LABOR CONTRACTS.

§772. The annual fee for a license to act as agent to take acknowledgments to labor contracts in the District of Honolulu shall be fifty dollars.

The annual fee for a license to act as Notary Public, or as an agent to take acknowledgments, shall be ten dollars for Honolulu, and five dollars for all other districts.

PART XVIII.—PEDDLING CAKE.

§773. The annual fee for a license to peddle cakes shall be twenty-five dollars.

§774. A license to peddle cake shall be issued only upon the written recommendation of the Marshal, or of the Sheriff of the Island for which the license is requested; and shall authorize the holder to peddle only upon the Island which is named in the license.

PART XIX.—POISONOUS DRUGS.

§775. The annual fee for a license to import and sell poisonous drugs shall be fifty dollars.

§776. The Board of Health may, upon the conditions to be named in such authorization, authorize any duly qualified physician or surgeon, or any person holding a license to import and

sell poisonous drugs, to import and sell for medicinal purposes only, opium and preparations thereof, upon the payment of the duties imposed by law.

Provided however, that no person shall sell or furnish opium or any preparation thereof, except upon the written prescription of a duly licensed physician signed by him.

§777. Any person who shall import, sell or furnish any poisonous drugs without a license so to do; or who shall violate any of the terms of this Act, shall be fined not less than fifty nor more than five hundred dollars, or be imprisoned at hard labor not exceeding six months in the discretion of the Court.

§778. Nothing herein contained shall be construed to prevent the Government or the Board of Health from importing and using or distributing any drugs or medicine.

PART XX.—PUBLIC SHOW.

§779. The Minister, or the Sheriffs upon their respective islands, may license for any term not exceeding one year, any theater, circus, public show, lecture, or exhibition, not of an immoral character, to which an admission fee is charged, or during which a fee is collected, upon such conditions as he or they may deem reasonable.

§780. The fee for each performance under any such license shall be five dollars. But no fee shall be charged if the Minister or Sheriff is satisfied that the entire proceeds of the performance or exhibition are to be devoted to any school, religious or charitable institution, or for the promotion of art, and not for profit.

§781. The police authorities shall have the right to be present at and regulate any performance licensed under this Act, in such manner as may be reasonably necessary for the preservation of order, decorum and the public peace or morals.

§782. Any person who shall set up, promote, exhibit or take part in any theater, circus, public show, lecture or exhibition, without a license authorizing the same first having been obtained in accordance with the terms of this Act; or who, having obtained a license, shall violate any of the conditions thereof, or who shall misrepresent to the Minister the character of the performance or exhibition to be given, with a view of obtaining a remission of the license fee, or for any other purpose; or who, having obtained a license, shall give any obscene, indecent or immoral performance or exhibition, or any performance or exhibition other than the one or ones authorized in such license, shall be fined not less than ten dollars nor more than one hundred dollars, or imprisonment at hard labor for not more than six months, in the discretion of the Court, and if he has a license, his license shall be cancelled.

PART XXI.—SALMON.

§783. The annual fee for a license to sell salmon shall be ten dollars.

§784. Nothing herein contained shall be construed to prohibit the sale of salmon by any person holding a license under this Act to sell imported merchandise.

PART XXII.—TOBACCO, CIGARS AND CIGARETTES.

§785. The annual fee for a license to sell tobacco, cigars and cigarettes shall be ten dollars. The payment of this fee shall not be construed to exempt the holder from the payment of a fee for a merchandise license as provided for by Section 764.

§786. From and after the passage of this Act, it shall be unlawful to sell or furnish tobacco in any shape or form whatsoever to minors under the age of fifteen years.

§787. Any person violating the provisions of Section 786 shall be punished by fine not exceeding one hundred dollars, and

if such offense be committed by any dealer licensed to sell tobacco, such dealer after the second offense shall forfeit his license.

§788. Jurisdiction is hereby conferred upon District Magistrates to hear and determine all cases arising under Sections 786 and 787.

PART XXIII.—VEHICLES AND DRIVERS.

§789. The annual fee for a license to carry freight or baggage for hire or compensation in the District of Honolulu, Wailuku and Hilo, on any dray, cart, wagon, or other vehicle other than a handcart, shall be two and a half dollars for each vehicle so used.

The annual fee for a license to drive any licensed vehicle shall be one dollar; and such license shall permit the licensee to drive any vehicle licensed under this section.

§790. The annual fee for a license to carry passengers for hire in any vehicle, shall be one dollar for each person for which such vehicle has a carrying capacity.

§791. The Marshal, or a Sheriff, or Deputy Marshal, or Deputy Sheriff, or an Inspector appointed by the Marshal for such purpose, shall, before any license is issued for any passenger vehicle, inspect the vehicle for which a license is requested, and the harness and the animals to be used therewith, and if he find the same to be in good serviceable condition he shall deliver to the applicant therefor, a certificate setting forth such fact, and the capacity of the vehicle. Such officer shall also examine any applicant for a driver's license, and if he find such applicant to be a competent driver he shall give him a certificate to that effect.

No license shall be issued to any driver or for any passenger vehicle until the receipt by the Minister of such certificate.

R

§792. The owner of a licensed vehicle shall continuously exhibit in a conspicuous place on every such vehicle, the number of the license issued for such vehicle.

Every licensed driver shall wear, while employed, a badge which shall be supplied by the Minister at cost, showing his number.

§793. No licensed vehicle shall convey at any one time a greater number of passengers than the capacity enumerated in its license.

§794. The Minister may, from time to time, make rules regulating licensed drivers and licensed vehicles, and the fares to be charged by them, which rules shall be published in some newspaper or newspapers, and shall then have the force and effect of law.

§795. Any person who shall in any district where a vehicle license is required convey any passenger or freight for hire in any unlicensed vehicle;

Or who shall allow an unlicensed vehicle owned by him to be used for such purpose;

Or who, having a license, shall use any vehicle, harness or animal which is not in good and serviceable condition;

Or who shall drive a licensed vehicle without a driver's license;

Or who shall violate or fail to observe any of the requirements of this Act, or of the rules made by the Minister under this Act, shall be fined not more than twenty-five dollars for each such violation, and the license of any such licensed vehicle or driver may, in the discretion of the Court, be cancelled.

#### PART XXIV.—THE COASTING TRADE.

§796. The Collector-General of Customs, under the direction of the Minister of the Interior, shall grant a coasting license for one year, to any Hawaiian registered vessel, the owner of

which shall have applied to him in writing, setting forth the vessel's name, with the date and number of her register, which license shall be in such form as may be approved by the Minister of the Interior.

§797. The said Collector-General of Customs shall charge for every coasting license, the sum of one dollar per ton register upon vessels of every class up to and including twenty-five tons, and fifty cents for every additional ton over twenty-five tons; and upon granting any such license, he shall exact of the owner a bond, with at least one sufficient surety, to be approved by said Collector, in the penal sum of Five Hundred Dollars, in such form and upon such condition as may be approved by the Minister of the Interior.

§798. Any vessel which shall engage in the coasting trade of this Republic, without a license, shall be liable to seizure, confiscation and sale, for the benefit of the Government Treasury.

§799. The Minister of the Interior shall have power, under the approval of the President, to establish rules for the guidance and government of all vessels engaged in the coasting trade; and in case any such vessel shall violate any of the said rules, he shall have the power to annul its license.

§800. The said Minister may, at any time, impress any licensed coaster into the public service upon a just compensation, to be afterwards assessed by the Court of Admiralty of this Republic.

§801. All vessels engaged in the coasting trade shall carry the inter-island mails free of charge, under such regulations as may from time to time be provided by law, or prescribed by the Minister of the Interior, upon pain of forfeiting their licenses.

§802. All such vessels shall carry to and from such ports or places as they may be engaged in trading to or from, all passengers required to be carried, by the Board of Health, or its authorized agent or agents, to be carried on board of such vessel, on payment of the usual and reasonable passage money, upon pain of forfeiting their licenses.

§803. No vessel shall engage in the coasting or carrying trade having on board any spirits, wines, liquors, stores, or articles of merchandise which have not paid the legal duties in this Republic, under penalty of not less than fifty, nor more than one thousand dollars, in the discretion of the Court.

PART XXV.—CARRYING PASSENGERS BETWEEN THE ISLANDS.

§804. From and after the first day of February, 1865, it shall not be lawful for any vessel to carry passengers between the different islands of the Republic, except such vessels as shall be especially licensed for that purpose, under a penalty of twenty dollars for each passenger so carried, to be recovered before any District Magistrate.

§805. Before obtaining the said license, it shall be necessary that the vessel for which such license is desired shall be thoroughly inspected by some person to be appointed for that purpose by the Collector-General of Customs; and the person so appointed shall be entitled to a fee of three dollars for such inspection and his certificate, which fee shall be paid by the owners of such vessel before the inspector shall proceed on board; and if the inspector shall certify the said vessel to be staunch, and well equipped and of sufficient capacity and accommodation to carry passengers, on presenting such certificate to the Collector-General of Customs, the owners of such vessel shall be entitled to receive a license to carry passengers between the islands of the Republic for one year, subject to the rules and regulations hereinafter provided; it being expressly understood and enacted, that the force and effect of Article Second of the



Civil Code, entitled "Of the Internal Trade and Commerce," is not changed or altered, but is applicable to goods only.

§806. No vessel shall carry more than one passenger for every two tons registered burthen, excepting steam vessels, the same being allowed to carry two passengers for every three tons burthen; and in case of any violation thereof, the master of such vessel shall be liable to a fine of five dollars for each passenger so carried, the same to be recovered, for the use of the Hawaiian Government, before any District Magistrate. And each vessel licensed to carry passengers between the islands shall carry, on all her passages, secured on deck, one spare extra cask, of the capacity of at least two barrels, filled with water, and under her deck, easily accessible, as many barrels of good sound bread or rice, and salt provisions, and water, as may, from time to time, be required by the Harbor Master of Honolulu; and for disobedience to the orders of the Harbor Master, by not carrying the quantity of water and provisions required and commanded by him, the vessel, the master of which has so neglected to obey the order of the said Harbor Master, shall be liable to have her license revoked by the Collector-General of Customs, and the master shall be further liable to a fine not exceeding the sum of one hundred dollars, to be recovered before any District Magistrate.

§807. It shall not be lawful for any vessel engaged in inter-island navigation to receive on board, at either of the islands of Hawaii, Maui, Lanai, Molokai, Kahoolawe or Kauai, any female under the age of twenty-five years, with the intention of affording a passage for such female to Oahu, or to bring any female under the said age of twenty-five years from one of the aforesaid islands to Oahu, unless such female shall first have produced and delivered to the master or supercargo of the vessel a passport, signed by some person duly authorized, as in the succeeding section set forth. And the master of any vessel who shall afford a passage to any female, in contravention of this

law, shall be fined not less than five nor more than twenty-five dollars for each passenger so carried in contravention of this law.

§808. The several Circuit Judges, District Justices, Sheriffs, and Collectors of Customs, are hereby authorized to grant a passport, without charge to any female applying therefor, who may show to the satisfaction of such Circuit Judge, District Justice, Sheriff or Collector of Customs, that she has a reasonable cause for wishing to proceed to Oahu; and it shall be the duty of the officers aforesaid to refuse a passport to all females who cannot show a reasonable cause for their desire to proceed to Oahu; and the said passport shall set forth the cause and probable duration of such visit.

§809. The master or supercargo of every vessel licensed to carry passengers, immediately on his arrival at Honolulu, shall deliver to some officer of the customs or police, or to some other person authorized thereto by the Governor of Oahu, all the passports of the passengers by his vessel; and it shall be the duty of the person receiving the same to compare the number of passports with the number of persons on board the vessel liable to the law, and to verify the description, if there be any description on the passport, and to report the passports and all information pertaining to them to the headquarters of the police at Honolulu. And every female under the age of twenty-five years whose habitual place of residence is on one of the other islands, who shall have visited Oahu without having procured a passport, as in the preceding sections set forth, shall be liable to be arrested and sent back to her place of residence, at the expense of the vessel on which she came to Oahu.

#### PART XXVI.—MARRIAGE LICENSES.

§810. It shall be the duty of the Minister of the Interior, upon the nomination of the Board of Education, to appoint a suitable number of agents in the several districts of the Republic,

whose duty it shall be to grant marriage licenses, agreeably with the laws; which agents shall be entitled to the fee of twenty-five cents for each license, to be paid by the party applying therefor. Any such agent who shall charge more than that amount for any such license, or who shall receive a bribe for the same, shall be liable to a fine not exceeding fifty dollars, upon conviction before any District Justice.

PART XXVII.—PEDDLING FOREIGN GOODS.

§811. It shall not be lawful for any person to peddle goods, wares or merchandise of foreign product or manufacture in the Hawaiian Islands.

§812. Any person who peddles goods, wares or merchandise of foreign product or manufacture in the Hawaiian Islands shall, upon conviction before any District Magistrate, be fined in a sum not less than one hundred dollars nor more than two hundred dollars.

PART XXVIII.—IMPORTATION OF LIVE STOCK.

§813. All dealers in live stock bringing live stock into this Republic for sale by order, or by importation for gain, such as horses, mules, jacks, cattle, sheep and hogs, shall, before any of such live stock can be offered for sale, or sold, be required to apply for and obtain a license to sell, from the Minister of the Interior.

§814. The dealer or dealers of all live stock brought into this Republic for sale, shall pay to the Minister of the Interior a license fee of two hundred and fifty dollars. This license fee shall not apply to any resident importing for his own use, or for breeding purposes; but all animals so imported shall be subject to the quarantine laws of this Republic.

§815. This license shall be good for one year from the date issued, and shall not be transferable.

## PART XXIX.—KEROSENE.

§816. The Minister of the Interior is hereby authorized in his discretion to grant a license to any person, company or partnership to import kerosene oil of not less than one hundred degrees (Fahrenheit) test, and to use the same for fuel and mechanical purposes in some lawful business or industry to be designated in the license; provided, however, that no such license shall be granted for the use of such oil for such purpose within the limits of the City of Honolulu.

The fee for such license shall be the sum of ten dollars, and the license shall be for one year from the date of issue.

§817. Before granting such license a good and sufficient bond to the said Minister in the sum of one thousand dollars shall be required.

The conditions of the bond shall be that the holder of the license shall not use the oil imported under the provisions of this Act within the limits of the City of Honolulu, nor for any other purpose than that named in the license; and that the holder of the license will not give, sell or furnish any of such oil to any other person, company or corporation not holding a similar license, for any purpose whatsoever.

§818. The City of Honolulu, for the purposes of this Act, shall be deemed to be included within a circuit of three miles from the junction of King and Nuuanu streets.

§819. The Collector-General of Customs is hereby authorized to permit any holder of a license under the provisions of this Act to withdraw from the Custom House kerosene oil of less than one hundred and fifteen degrees (Fahrenheit) test, but not less than one hundred degrees (Fahrenheit) test for the purposes named in this Act; provided, however, that every container be plainly marked "Fuel Oil, not to be used with a wick."

§820. The provisions of Chapter 68 of the Session Laws of 1890 (P. L. Sections 1517-1526) relating to the storing and test-

ing of kerosene oil and the exportation thereof when not equal to the required test, shall apply to oil of the description mentioned in Section 816, so far as the same are consistent herewith.

§821. Every person who shall use oil of the kind described in Section 819, without a license, or in contravention with the terms of his license, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding five hundred dollars, or by imprisonment at hard labor for a term not exceeding six months.

PART XXX.—PAWNBROKERS.

§822. Every person who shall advance for interest or for or in expectation of profit, gain or reward any sum of money upon security of any goods or chattels whatsoever, taken by such person by way of pawn or pledge, shall be deemed and taken to be a pawnbroker within the meaning of this Act; provided, that nothing herein shall be held or construed to apply to loans or advances made on any goods or chattels, bonds, bills, or other security taken by merchants, bankers, commission agents or auctioneers in the ordinary and *bona fide* course of mercantile or banking transactions.

§823. The Minister of the Interior is hereby authorized to grant licenses for the respective periods of one year to carry on the business of pawnbroking, upon payment of the sum of one hundred and fifty dollars.

§824. Every such license shall be issued upon these express conditions set forth in such license:

That the person receiving such license shall not charge or receive interest at the rate of more than four per centum per month for any loan under twenty dollars, nor more than two per centum per month for any sum above twenty dollars, and under one hundred dollars, nor more than one per centum for any sum

over one hundred dollars, nor exact any other gain, profit or reward by charging commissions, discount, storage or other charge, or by compounding or by any other device increasing such interest.

That he shall not sell any article pledged to him and unredeemed within six months after the last day fixed by contract for the redemption, nor make any such sale without publishing at least twice in a newspaper published in Honolulu, in English and Hawaiian, at least ten days before such sale a notice containing a list of the articles to be sold, and specifying the time and place of sale.

That he will disclose to the pledgor or his agent the name of the purchaser and the price received by him for any article so pledged and sold.

That he will keep a register in the English or Hawaiian language and enter in such register the date, duration, amount, rate of interest on any loan made by him, an accurate description of the property pledged, the name and residence of the pledgor and will deliver to the pledgor a copy of such entries and will also enter in such register an account in writing of all sales made by him.

That he will produce for inspection his register and exhibit all articles received by him in pledge and his account of sales to any officer authorized under a search warrant to search for property or holding an order of a Magistrate directing such officer to inspect such register or such articles pledged or such account of sales.

That he will notify the Marshal of the Republic or his Deputy of any offer made by any person to pledge any articles which said licensee has reasonable cause to suspect of having been stolen.

§825. Any person who carries on the business of pawnbroker except by authority of the license provided for in this Act shall be liable upon conviction before any District Magistrate to a fine not exceeding three hundred dollars.

§826. Every licensed pawnbroker who shall fail to comply with any of the conditions mentioned in Section 824 shall upon conviction before any District Magistrate be liable to a fine not exceeding three hundred dollars and shall forfeit his license.

PART XXXI.—MEDICINE AND SURGERY.

§827. No person shall practice medicine or surgery as a profession in the Hawaiian Islands, either gratuitously or for pay, or shall offer to so practice, or shall advertise or announce himself, either publicly or privately, as prepared or qualified to so practice, without having first obtained from the Minister of the Interior under seal of his department, a license in form and manner substantially as hereinafter set forth. Such license shall only be granted upon the written recommendation of the Board of Health.

All licenses to practice medicine or surgery heretofore granted by the Minister of the Interior upon the recommendation of the Board of Health, and in force at the time of the passage of this Act, shall remain in force, subject to the provisions of this Act.

§828. For the purposes of this Act the practice of medicine shall be held to include the use of drugs and medicines, water, electricity, hypnotism, or any means or method, or any agent, either tangible or intangible, for the treatment of disease in the human subject. Provided, however, that nothing herein contained shall be held to forbid any person from the practice of any method, or the application of any remedial agent or measure under the direction or with the approval of a licensed physician.

§829. No person shall be recommended by the Board of Health for a license to practice medicine or surgery except upon the written report of a Board of Medical Examiners, to be appointed and constituted as hereinafter provided, setting forth that the applicant named therein has been duly examined and found to be possessed of the necessary qualifications.

§830. For the purpose of carrying out the provisions of this Act, the Minister of the Interior is hereby authorized and directed to appoint a Board of Medical Examiners, whose duty it shall be to examine all applicants for license to practice medicine or surgery, and to report the result of such examination to the Board of Health.

Such Board of Medical Examiners shall consist of three persons, all of whom shall be licensed physicians or surgeons under the laws of this Republic. The first appointments shall be for one, two and three years respectively, and all subsequent appointments, unless to fill out unexpired terms, shall be for three years, subject, however, to removal for cause by the Minister of the Interior. The members of the Board of Medical Examiners shall serve without pay.

§831. No applicant for license to practice medicine or surgery shall be examined, until he shall have paid to the Minister of the Interior a fee of ten dollars.

§832. Any person who shall practice medicine or surgery in the Hawaiian Islands, or who shall offer or attempt to so practice, or shall advertise or announce himself, either publicly or privately, as prepared or qualified to so practice, contrary to the provisions of Section 827, shall be guilty of a misdemeanor, and shall be liable on conviction to a fine of not more than two hundred and fifty dollars, in the discretion of the Court.

§833. Licenses to practice medicine and surgery, whether granted under the provisions of this Act or of any Act heretofore existing, may be revoked by the Minister of the Interior at any time for professional misconduct, gross carelessness or manifest incapacity; such misconduct, carelessness or incapacity, having been proven to the satisfaction of the Board of Health, and by that body reported in writing to said Minister. In case any license is revoked for any of the causes named in this Section, the holder thereof shall be immediately notified of such revocation in writing by the Minister of the Interior.



§834. In case of an alleged misconduct, carelessness or incapacity on the part of any holder of a license to practice medicine or surgery, the person so charged shall be notified in writing of the charge or charges that have been made, and of the time and place when and where evidence in support of the same will be heard, and shall have the opportunity to present evidence and be heard in his own defense.

§835. The form of license to practice medicine and surgery shall be substantially as follows:

REPUBLIC OF HAWAII, DEPARTMENT OF THE INTERIOR. LICENSE  
TO PRACTICE MEDICINE AND SURGERY.

....., a native of .....  
....., aged ..... years,  
having been duly examined by the Board of Medical Examiners,  
and having been recommended by the Board of Health as possessed of the necessary qualifications, is hereby licensed to practice medicine and surgery in the Republic of Hawaii.

This license is granted and accepted on the express condition that it may be revoked at any time for professional misconduct, gross carelessness or manifest incapacity; such misconduct, carelessness or incapacity, having been proven to the satisfaction of the Board of Health, and by that body reported to the Minister of the Interior.

Given under my hand and the seal of the Department of the Interior, this...day of....., A. D.....

(Signed) .....

Minister of the Interior.

(Signed) .....

Chief Clerk.

§836. Any person who shall attempt the cure of another by practice of sorcery, witchcraft, anaana, hoopio, hoounauna, hoomanamana, or other superstitious or deceitful methods, shall, upon conviction thereof before a District Magistrate be fined in

a sum not less than one hundred dollars, nor more than two hundred dollars or be imprisoned at hard labor not to exceed six months.

PART XXXII.—DENTISTS.

§837. From and after the passage of this Act it shall be unlawful for any person or persons to practice dentistry in the Republic of Hawaii except upon a certificate issued from a Board of Dental Examiners.

§838. The Board of Dental Examiners shall consist of three members, namely, one physician and two dentists who shall be appointed by the Minister of the Interior, and whose first term of office shall be for one, two and three years and thereafter shall hold office for three years. The said Board to act without compensation.

§839. It shall be the duty of the Board of Dental Examiners to issue certificates of qualification to any person or persons at present engaged in the practice of dentistry who, within sixty days from the passage of this Act shall file an application before said Board under oath and sworn to by two or more reputable citizens setting forth the fact that he has been engaged in the active practice of dentistry in the Republic of Hawaii for two or more years previous to the passage of this Act.

§840. It shall be the duty of the said Board to issue certificates of qualification to any person or persons at present practicing in the Republic of Hawaii who shall file an application in writing within sixty days from the passage of this Act and pass a creditable examination before the Board upon dental medicine and surgery.

§841. It shall be the duty of the said Board to issue certificates of qualification to any person or persons at present practicing in the Republic of Hawaii who shall present within sixty

days from the passage of this Act a diploma from a reputable Dental College.

§842. From and after sixty days subsequent to the passage of this Act the said Board shall issue a certificate of qualification to any person who shall present a diploma from a reputable Dental College, or who shall pass a creditable examination before the Board.

§843. Any person or persons receiving certificates from said Board shall present said certificates to the Minister of the Interior who shall record the same in a book kept for such purpose.

§844. Any person or persons who shall violate the provisions of this Act shall upon conviction thereof be liable to a penalty of not less than one hundred nor more than five hundred dollars. Provided, that nothing in this Act shall be construed so as to prevent the extraction of teeth under circumstances of necessity.

#### PART XXXIII.—MISCELLANEOUS REGULATIONS.

§845. From and after the passage of this Act, all persons holding a License from the Interior Department for any class or kind of business shall keep said License exposed to view, in some prominent place, convenient for inspection, on the premises for which the same is granted. Any failure to comply with the requirements of this Section, shall upon complaint to the nearest District Magistrate, subject the party, or firm, under whose name the License is held, to a fine of not less than \$10 or more than \$50.

§846. If any person or persons holding a License from the Interior Department shall close out, transfer or assign the business for which said License is held, during the term for which the same was issued, they shall within thirty days from the date of such closing out, transfer or assignment, notify the Minister

of the Interior of such fact in writing, and return said License to the Interior Office for cancellation, under a penalty of \$100, upon complaint to any District Magistrate.

§847. All Licenses issued by the Interior Department shall be signed by the Minister of the Interior or his Chief Clerk, and impressed with the Seal of the Department.

§848. All Licenses which now are, or which hereafter may be, by law, granted by the Minister of the Interior, shall be signed by either the Minister of the Interior or the Chief Clerk of the Interior Department.

§849. The Minister of the Interior shall refuse to issue Licenses for any business whatsoever, except in fire proof buildings in that part of Honolulu east of Alakea Street, and north of Beretania Street, if in his opinion or discretion the nature of such business or the location thereof might endanger the safety of the neighborhood from fire.

#### NOTE TO CHAPTER 55.

- §§690-785 are S. L. 1896, Act 64, §§1-96.
- §§786-788 are S. L. 1890, Ch. 62.
- §§789-795 are S. L. 1896, Act 64, §§97-103.
- §§796-803 are C. L. §§49-55.
- §804 is P. C. Ch. 55, §15.
- §805 is S. L. 1874, Ch. 12, C. L. p. 512.
- §§806-807 are P. C. Ch. 55, §§16-17.
- §808 is S. L. 1864, C. L. p. 513, §7.
- §809 is P. C. Ch. 55, §18.
- §810 is P. C. Ch. 55, §14.
- §§811-812 are P. G. Act 47.
- §§813-815 are S. L. 1890, Ch. 65.
- §§816-821 are S. L. 1896, Act 14.
- §§822-826 are S. L. 1886, Ch. 28.
- §§827-835 are S. L. 1896, Act 60.
- §836 is S. L. 1887, Ch. 35.
- §§837-844 are S. L. 1892, Ch. 72.
- §§845-847 are S. L. 1890, Ch. 28.
- §848 is S. L. 1888, Ch. 2.
- §849 is S. L. 1886, Ch. 57.

Cases in Hawaiian Reports: *Bradley v. Thurston*, 7 Haw. 528; *Rex v. Wall*, 7 Haw. 760; *Re Licenses*, 7 Haw. 774; *Rex v. Chung Young*, 8 Haw. 157; *Williams v. Pantheon*, 8 Haw. 168; *R. v. Gasper*, 8 Haw. 234; *Bankruptcy Daniels*, 8 Haw. 747; *R. v. Clark*, 10 Haw. 585.

## CHAPTER 56.

## DESERTION OF HUSBAND OR WIFE:

§850. Upon the sworn complaint before any Judge of a Court of Record, or District Magistrate, by any party, that his wife has, without cause, forsaken his bed and board, and refused and still refuses to cohabit with him; or that her husband has, without cause, deserted her, and neglects to maintain, provide for and support her, as in Section 1286 Civil Code provided, such Justice may issue a warrant to apprehend and bring before him the party so complained of.

§851. Said Justice shall examine into, hear and determine the complaint, and shall secure, if practicable, a reconciliation between the parties; if they become reconciled to each other, no penalty shall be imposed.

§852. But if the offending party refuse to return and perform the duties of the marriage contract, he or she may be punished by imprisonment at hard labor for a term not exceeding one month, in the discretion of the Judge.

§853. If the party complained against shall again leave, after the first complaint, if either the husband or wife, he or she shall be sentenced to imprisonment at hard labor for a period not exceeding one year.

§854. In any suit brought for desertion, it shall be permitted the defendant to prove in self-justification the ill conduct of the complainant, and on establishing such defense to the satisfaction of the Court, the suit may be dismissed, the Judge

S

290      DESERTION OF HUSBAND OR WIFE.

awarding the costs as in civil cases, and execution may be issued therefor.

§855. The provisions of Section 590 of the Penal Laws shall not be applied to the warrant provided for by Section 850 of this Chapter.

NOTE TO CHAPTER 56.

§850 is P. C. Ch. 56, §1.

§§851-855 are S. L. 1890, Ch. 36, re-enacting P. C. Ch. 56, §2-4; S. L. 1878, Ch. 14; C. L. p. 612 and S. L. 1876, Ch. 36; C. L. p. 585.

Section 1286 of the Civil Code, referred to in §850, was repealed S. L. 1888, Ch. 11.

Cases in Hawaiian Reports:    Re Kelkoa, 5 Haw. 280; Silva v. Silva, 8 Haw. 496.

CHAPTER 57.

TO MITIGATE THE EVILS AND DISEASES ARISING FROM PROSTITUTION.

WHEREAS, The evils and diseases arising from prostitution are wide spread and apparent, carrying death to thousands of the Hawaiian race, and preventing the increase of the population; and it being impossible to suppress and crush out prostitution; but that its evils and diseases may be combated, circumscribed and diminished:

§856. Every common prostitute in and around the City of Honolulu shall register with the Sheriff of the Island of Oahu her name, place of residence, place of birth, and age.

§857. All females known to be common prostitutes, who shall fail to cause themselves to be registered according to Section 856 shall, on complaint and conviction before the Police Magistrate of Honolulu, be imprisoned for not less than thirty nor more than sixty days, and be subject to the rules of such place of confinement.

§858. Such females, registered as above, shall attend and be examined by a physician to be appointed by the Minister of the Interior, at least once in every two weeks, at some convenient place, of which public notice shall be given, and if found diseased, such females shall be treated free of charge for such disease, subject to such regulations and restriction as may be prescribed by the said physician.

§859. Any female registered as above, who shall not attend for examination as above provided, or who shall not obey the

## 292 MITIGATE THE EVILS FROM PROSTITUTION.

prescriptions of the physician, upon information thereof to the Sheriff, such female may be summarily imprisoned for not less than thirty nor more than sixty days; provided, that nothing herein contained shall imply that any female free from disease, so registered, may not at any time forsake prostitution, have her name erased from the registry, and no longer remain under the provisions of this section.

§860. The physician appointed as above shall be paid such reasonable compensation as may be determined upon by the Minister of the Interior, out of the funds appropriated from time to time by the Legislature to be expended under this Chapter.

§861. The Sheriff of Oahu shall be charged with the execution of this law, and shall be further empowered to establish such police regulations for the better carrying into effect the object contemplated by this law, as he may deem requisite, subject to the approval of the Minister of the Interior; and it shall be his duty to render a quarterly report of all matters connected with the execution of this law to the Minister of the Interior, and biennially through the said Minister to the Legislature.

§862. It shall be lawful for the District Magistrates of Honolulu, Lahaina and Hilo, respectively, to cause to be arrested and brought before them, any female that may be complained of by the Sheriff or Prefect of Police, as being a prostitute, and if it shall appear to the satisfaction of the Justice that such female is a prostitute, and that her father, mother, or other guardian, reside in any other district than that in which such Justice has jurisdiction, or that such female has left her native district and come to reside within the district where such Justice has jurisdiction, for the purpose of prostitution, then such Justice may order such female to return to her parents or guardian, if she have any, or to the district from whence she came, within forty-eight hours from the time of such order; and if such female be found within his district after the expiration of such period of forty-eight hours, the Justice may punish her by im-



prisonment at hard labor, or solitary confinement, for a period not exceeding thirty days upon the first complaint, and upon any subsequent complaint, for a period not exceeding sixty days. It shall be the duty of all judicial and police officers, school-inspectors and school-teachers, to inform the Police Justices of the seaports aforesaid, of any females belonging to their respective districts whom they may suspect of having resorted to said seaports for the purposes of prostitution, that they may be dealt with as hereinbefore provided.

§863. From and after the passage of this Act, the execution of the law entitled "An Act to mitigate the evils and diseases arising from prostitution," shall devolve upon the Board of Health.

The said Board shall have full power and authority to enforce said law, and to make such rules and regulations, from time to time, as they shall deem best for the carrying out of the provisions of the law.

NOTE TO CHAPTER 57.

§§856-862 are P. C. Ch. 57, §§1-7.

§863 is S. L. 1892, Ch. 51.

## CHAPTER 58.

## DISEASE OF SHEEP.

§864. The Minister of the Interior may appoint a Sheep Inspector in each of the Gubernatorial Districts of the Republic, upon the application of the majority of the sheep owners in such district. The term of service of said Inspector shall be two years, unless sooner removed for cause by said Minister. He shall receive no compensation for the duties of such office from the Government.

§865. It shall be the duty of the Sheep Inspector, upon the written complaint of any person that any sheep or flock of sheep is infected with scab, or other infectious or contagious disease, to examine such sheep or flock in the presence of the owner or keeper thereof, and determine whether or not such complaint is true. If it be found that any such disease exists in said sheep or flock of sheep, the Inspector shall thereupon in writing notify the owner of the same, or his agent, of the fact. For such services he shall be entitled to receive the sum of five dollars for each day actually engaged in such duty, and his traveling expenses, which shall be paid by the person complaining. If such complainant in the written application shall not agree to become liable for such payment, the Inspector may disregard the application.

§866. It shall not be lawful to drive any sheep infected with scab or other infectious or contagious disease along any public road, without the consent first obtained in writing of the owners of sheep whose runs adjoin such roads, or on or through lands in use as sheep runs, without such consent so obtained.

§867. The owner of any sheep driven contrary to the provisions of Section 866 shall be liable, on conviction before any District Magistrate, to a fine of not less than two hundred dollars, and higher, in the discretion of such Justice; and for diseased sheep straying upon the sheep run of another, may be fined not less than twenty-five dollars for each sheep.

## NOTE TO CHAPTER 58.

§§864-867 are S. L. 1876, Ch. 25, C. L. p. 577, repealing P. C. Ch. 58.

## CHAPTER 59.

## THE PUBLIC HEALTH.

## PART I.—BOARD OF HEALTH.

§868. There shall be a Board of Health for the Hawaiian Islands, consisting of seven members, three of whom shall be laymen, three physicians, and the Attorney-General *ex-officio*. The members of the said Board shall be appointed by the President, with the consent of the Executive Council, and shall be commissioned for two years; provided, that the Minister of the Interior, with the consent of the Executive Council, may remove any member of said Board, and the Minister of the Interior may fill all vacancies in said Board with a like consent. All of the members of said Board shall serve without pay. The Board shall elect its presiding officer, who shall be styled the President of the Board of Health; and in case of his absence, any member of the Board may be chosen to preside over the meetings of the Board. The Board shall appoint its executive officer, secretary, agents and physicians, who shall receive such compensation for their services as shall be approved by a majority of members of the Board at a regular convened business meeting thereof, said compensation to be paid out of any funds available to the Board by appropriation.

The Board shall have general charge, oversight and care of the public health, and shall make, through its President, an annual report to the Minister of the Interior, showing in detail all its expenditures and transactions and such other information regarding the public health as the Board shall deem of special interest.

§869. Said Board of Health may appoint suitable agents in such localities as it may deem necessary, to carry into effect all regulations for the public health; and it shall hold such agents accountable for all moneys received and disbursed by them, on account of the public health, and also for the manner in which they may discharge their several duties.

§870. The Board of Health may make such regulations respecting nuisances, sources of filth, and causes of sickness, within the respective districts of the Republic, and on board of any vessels, as it shall judge necessary for the public health and safety.

§871. Said Board shall also make such regulations as it may judge necessary for the public health and safety, respecting any articles which are capable of containing or conveying any infection or contagion, or of creating any sickness, when such articles shall be brought into or conveyed from any district, or into or from any vessel.

§872. Said Board shall also make all regulations which it may judge necessary, for the interment of the dead, and respecting cemeteries and burying grounds.

§873. Notice shall be given by the Board of Health of all regulations made by it, by publishing the same in some newspaper of the district, or where there is no such newspaper, by causing them to be posted in three public places of the town or district; and such notice of said regulations shall be deemed legal notice to all persons.

§874. Every person who shall violate any regulation of the Board of Health, after the same shall have been published, as provided in the last preceding section, shall be fined not exceeding one hundred dollars.

§875. For the purpose of carrying into effect the law relating to the public health, the Board of Health shall be and hereby is invested with full power to apportion and disburse all sums of money that shall be appropriated by the Legislature for the preservation of the public health, and in case of pestilence or contagious disease, all such sums shall from time to time be appropriated by the President for the protection of the lives and health of the people. The said Board shall observe the strictest economy in the expenditure of all public moneys placed under its control, and shall deposit with the Minister of the Interior for safe keeping, all the original vouchers for expenditures made under its discretion, and all books, records and papers relating to its business and transactions. All drafts upon the Public Treasury for expenditures under the Board of Health shall, in order to their validity, be signed by the Minister of the Interior.

§876. The Board of Health shall keep a regular record of its proceedings, and shall, annually, make a full and detailed report of its transactions, including an account of its receipts and expenditures, to the Minister of the Interior, who shall lay the same before the Legislature. Said Board shall also, during the prevalence of any severe pestilence, or epidemic, publish a weekly report of the public health.

#### PART II.—ABATEMENT OF NUISANCES.

§877. The Board of Health and its agents shall examine into all nuisances, sources of filth and causes of sickness, on shore, or in any vessel, and shall cause the same to be destroyed, removed or prevented, as the case may require.

§878. Whenever any such nuisance, source of filth, or cause of sickness shall be found on private property, the Board of Health or any health agent shall order the owner or occupant thereof, at his own expense, to remove the same within forty-

eight hours; and if the owner or occupant shall neglect so to do, he shall be fined in a sum not exceeding one hundred dollars.

§879. If the owner or occupant shall not comply with such order of the Board of Health, the Board or any of its agents may cause such nuisance, source of filth or cause of sickness to be removed; and all expenses incurred thereby shall be paid by the said owner or occupant, or by such other person as shall have caused or permitted the same.

§880. When any person shall be convicted for a common nuisance, that may be injurious to the public health, the Court may, in its discretion, order it to be removed or destroyed, at the expense of the defendant, under the direction of the Board of Health, or otherwise, as it may deem proper.

§881. The Supreme Court and the several Circuit Courts shall have jurisdiction concurrently with the District Courts, of all cases of common nuisances.

§882. Whenever any person shall be convicted in the Supreme Court or any Circuit Court, of maintaining a common nuisance, the Court shall order that said nuisance be abated. Such order shall not operate to suspend or vacate the sentence imposed, but shall be a wholly cumulative remedy. In case the order shall not have been made at the time of imposing the sentence, it may be made at any regular term of the same Court, or of the Supreme Court, holden within two years thereafter, upon motion by the Attorney-General, and reasonable notice to the defendant. Upon the hearing of such motion, the judgment previously rendered shall be conclusive evidence of the maintenance of the nuisance.

§883. All orders for the abatement of a nuisance shall direct, under a penalty, that the same be abated, within a time to be limited in such order, and that, if the same be not abated

within such time, that the proper executive officer of the law do forthwith abate the same at the cost of the defendant, who shall also be liable to the full amount of the penalty specified in such order, for which, as well as for all costs and expenses arising in such case, execution shall duly issue.

§884. Whenever any member of the Board of Health, or its agent, shall think it necessary for the preservation of the lives or health of the inhabitants, to enter any land, building or vessel, for the purpose of examining into and destroying, removing, or preventing any nuisance, source of filth, or cause of sickness, and shall be refused such entry, such member or agent may make complaint to any District Magistrate, who may thereupon issue a warrant directed to any Sheriff, Deputy Sheriff, or Constable, commanding him to take sufficient aid, and, being accompanied by such member of the Board of Health, or agent, between the hours of sunrise and sunset, to repair to the place where such nuisance, source of filth, or cause of sickness complained of may be, and the same to destroy, remove, or prevent, under the directions of such member or agent.

§885. No slaughter house shall be maintained in any part of this Republic, in any place where the Board of Health shall now or hereafter forbid the maintenance of the same.

### PART III.—QUARANTINE.

§886. The Board of Health and its agents may establish quarantine grounds in the several districts, as they may judge best.

§887. The Board of Health may, from time to time, establish the quarantine to be performed by all vessels arriving at any port of the Republic; and may make such quarantine regulations as it shall judge necessary for the health and safety of the inhabitants.



§888. The quarantine regulations so established shall extend to all persons, and all goods and effects, arriving in such vessels, and to all persons who may visit or go on board of the same.

§889. Notice shall be given of such quarantine regulations, by publication in the manner provided in Section 873, and after such notice shall have been given, any person who shall violate any such quarantine regulations shall be fined a sum not less than five, nor more than five hundred dollars.

§890. Any vessel which shall refuse to submit to quarantine, or which shall leave the quarantine ground before the expiration of the quarantine imposed upon her, or which shall be the means of clandestinely introducing into this Republic any contagious disease, or any disease dangerous to the public health, shall be liable to seizure, confiscation and sale, for the benefit of the Public Treasury.

§891. The Board of Health, and its agents, may at all times cause any vessel arriving, when such vessel or the cargo thereof shall in their opinion be foul, or infected, so as to endanger the public health, to be removed to the quarantine ground, and to be thoroughly purified at the expense of the owners, consignees, or persons in possession of the same; and they may also cause all persons arriving in or going on board of any such infected vessel, or handling such infected cargo, to be removed to some place of safety, there to remain under their orders.

§892. If any master, seaman, or passenger, belonging to any vessel, on board of which any infection may then be, or may have lately been, or suspected to have been, or which may have been at, or which may have come from, any port where any infectious distemper prevailed, that may endanger the public health, shall refuse to make answer on oath to such questions as may be asked him, relating to such infection or distemper, by the Board of Health, or its agents, such master, seaman, or passenger, so refusing, shall be punished by fine not exceeding

five hundred dollars, or imprisonment at hard labor not exceeding twelve months, or both, in the discretion of the Court.

§893. All expenses incurred on account of any person, vessel, or goods, under any quarantine regulations, shall be paid by such person, vessel, or owner of such vessel or goods respectively. The roadstead of Honolulu is hereby designated as quarantine ground.

§894. The Minister of Finance, upon being thereto requested by the Board of Health, shall order that all ports of entry in this Republic, except the port of Honolulu, be closed, and shall publish notice of such closing of said ports by publication in newspapers published in Honolulu.

§895. From the time of making said order, no vessel arriving from foreign ports shall be allowed to enter any port in this Republic except the port of Honolulu, unless driven into a port by stress of weather, nor shall such vessel under any circumstances be allowed to land any mails, cargo, passengers, officers or crew during the time while such order of the Minister of Finance is in force, except as provided in Section 896.

§896. After any vessel from foreign ports shall have entered the port of Honolulu, the Board of Health may issue a permit to such vessel to proceed to and enter its port of destination, if such port be any other than that of Honolulu.

§897. The Minister of Finance, when thereto advised by the said Board of Health, may revoke such order and give notice of such revocation by like publication, and thereupon the ports of entry established in the Republic shall be reopened for the entry of vessels arriving from foreign ports.

§898. Any officer of any vessel arriving from foreign ports, or any passenger thereon, or any member of her crew, who shall wilfully violate the prohibition established by the Minister of

Finance under Sections 894 to 898, shall be guilty of a misdemeanor, and upon conviction thereof in any District Court shall be punished by imprisonment not less than six months nor more than two years, and by fine of not less than one thousand nor more than ten thousand dollars.

§899. It shall be unlawful for any merchant ship or other vessel from any foreign port or place to enter any port of the Hawaiian Islands, except in accordance with the provisions of Sections 899 to 906, and with such rules and regulations of State and Health authorities as may be made in pursuance of, or consistent with those sections; and any such vessel which shall enter or attempt to enter, a port of the Hawaiian Islands in violation thereof shall forfeit to the Republic of Hawaii a sum, to be awarded in the discretion of the Court, not exceeding five thousand dollars, which shall be a lien upon said vessel, to be recovered by proceedings in the proper Court of the Republic of Hawaii.

§900. Any vessel at any foreign port clearing for any port or place in the Hawaiian Islands, shall be required to obtain from the Consul, Vice-Consul, or other Consular Officer of the Republic of Hawaii at the port of departure, or from the medical officer, where such officer has been appointed by the President for that purpose, a bill of health in duplicate in the form prescribed by the Minister of Foreign Affairs, setting forth the sanitary history and condition of said vessel, and that it has in all respects complied with the rules and regulations in such cases prescribed for securing the best sanitary condition of the said vessel, its cargo, passengers and crew; and said Consular or medical officer is required, before granting such duplicate bill of health, to be satisfied that the matters and things therein stated are true; and for his services in that behalf, he shall be entitled to demand and receive such fees, as shall by lawful regulation be allowed to be accounted for as is required in other cases.

§901. The President, in his discretion, is authorized to appoint a medical officer to serve in the office of the Consul at any foreign port, for the purpose of furnishing information and making the inspection and giving the bills of health hereinbefore mentioned. Any vessel clearing and sailing from any such port without such bill of health, and entering any port of the Hawaiian Islands, shall forfeit to the Republic of Hawaii not more than five thousand dollars, the amount to be determined by the Court, which shall be a lien on the same, to be recovered by proceedings in the proper Court of the Republic of Hawaii.

§902. The Minister of Foreign Affairs shall make such rules and regulations as are necessary to be observed by vessels at the port of departure and on the voyage, when such vessels sail from any foreign port or place to any port or place in the Hawaiian Islands, to secure the best sanitary condition of such vessel, her cargo, passengers and crew; which shall be published and communicated to and enforced by the Consular and medical officers of the Republic of Hawaii.

§903. None of the penalties herein imposed shall attach to any vessel, or owner, or officer thereof, until a copy of this Act, with the rules and regulations made in pursuance thereof, has been posted in the office of the Consul or other Consular officer of the Republic of Hawaii for ten days, in the port from which said vessel sails; and the certificate of such Consul or Consular officer over his official signature, shall be competent evidence of such posting in any Court of the Republic of Hawaii.

§904. The Minister of Foreign Affairs shall, from time to time, issue to the Consular officers of the Republic of Hawaii, and to the medical officers serving at any foreign port, and otherwise make publicly known, the rules and regulations made by him, and to be used and complied with by vessels in foreign ports, for securing the best sanitary condition of such vessels,

their cargoes, passengers and crew, before their departure for any port in the Hawaiian Islands and in the course of the voyage, so as to prevent the introduction of cholera, plague, small-pox, yellow fever, or other contagious or infectious diseases; and it shall not be lawful for any vessel to enter said port to discharge its cargo, or land its passengers, except upon a certificate of the Health Officer at the quarantine station at the port of destination, certifying that said rules and regulations, as well as the regulations of the Board of Health of the Republic of Hawaii, have been observed and complied with, as well on his part as on the part of the said vessel and its master, in respect to the same and to its cargo, passengers and crew; and the master of every such vessel shall produce and deliver to the Collector of Customs at said port of entry, together with the other papers of his vessel, the said bills of health required to be obtained at the port of departure and the certificate herein required to be obtained from the Health officer at the port of entry; and the bills of health herein prescribed shall be considered as part of the ship's papers, and when duly certified to by the proper Consular officer or other officer of the Republic of Hawaii, over his official signature and seal, shall be accepted as evidence of the statements therein contained in any Court of the Republic of Hawaii.

§905. On the arrival of an infected vessel at any port not provided with proper facilities for treatment of the same, the Port Collector or Health Officer of the port may remand said vessel, at its own expense, to the nearest quarantine station where accommodations and appliances are provided for the necessary disinfection and treatment of the vessel, crew, passengers and cargo; and after treatment of any infected vessel at a quarantine station, and after certificate shall have been given by the Health Officer at said station that the vessel, crew, cargo and passengers are each and all free from infectious disease, or danger of conveying the same, said vessel shall be permitted to enter any port of the Hawaiian Islands named within the certificate.

T

§906. Whenever it shall be shown to the satisfaction of the President, that by reason of the existence of any infectious or contagious disease in any foreign country, there is serious danger of the introduction of the same into the Hawaiian Islands, and that notwithstanding the quarantine defense, this danger is so increased by the introduction of persons or property from such country, that a suspension of the right to introduce the same is demanded in the interest of the public health, the President shall have the power to prohibit, in whole or in part, the introduction of persons and property from such countries or places as he shall designate, and for such period of time as he may deem necessary.

PART IV.—CAUSES OF SICKNESS AND CONTAGION.

§907. It shall be the duty of the Marshal, and all officers of police, and physicians, to report to the Board of Health, or its nearest authorized agent, the existence of any nuisance, injurious to the public health, of which either of them may be cognizant, as soon as possible after it shall come to their knowledge.

§908. It shall be the duty of every physician having a patient infected with the small pox, or any other disease dangerous to the public health, to give immediate notice thereof to the Board of Health, or its nearest agent, in writing, and in like manner to report to said Board, or its agent, every case of death which takes place in his practice, from any such disease; and every physician who shall refuse or neglect to give such notice, or make such report, shall be fined for each offense a sum not less than ten nor more than one hundred dollars.

§909. It shall be the duty of every householder, keeper of a boarding or lodging house, or master of a vessel, to report immediately to the Board of Health, or its nearest agent, any person in or about their house, or vessel, whom they shall have reason to believe to be sick, or to have died of, the small pox,

or any other disease dangerous to the public health, under a penalty of not less than five, nor more than one hundred dollars for each offense.

§910. When any person shall be infected with the small pox, or other sickness dangerous to the public health, the Board of Health, or its agent, may, for the safety of the inhabitants, remove such sick or infected person to a separate house, and provide him with nurses and other necessaries, which shall be at the charge of the person himself, his parents or master, if able, otherwise at the charge of the Government.

§911. If the infected person cannot be removed without danger to his life, the Board of Health, or its agent, may make provision for him, as directed in the last preceding section, in the house in which he may be; and, in such case, they may cause the persons in the neighborhood to be removed, and may take such other measures as they shall judge necessary for the public health and safety.

§912. The Minister of the Interior may establish a hospital on each of the Islands of Oahu, Maui, Hawaii, and Kauai, to be under the immediate supervision and control of the Board of Health, which may make rules and regulations for the government of such hospitals; which rules and regulations shall be published for general information.

§913. For the purpose of removing nuisances, and causes of sickness, the Board of Health may require the Marshal and Sheriffs to cause the prisoners under their charge to aid in such work.

§914. In case any moneys are expended by the Board of Health for any sick person brought into this Republic in any vessel from abroad, it shall be the duty of said Board, or its agent, to demand the same from the master of the vessel in which such sick person was brought; and the Collector of Cus-

toms shall not grant clearance to such vessel until the same is paid. The master of such vessel shall be liable for the amount of the moneys thus expended.

#### PART V.—VACCINATION.

§915. The Minister of the Interior shall appoint, upon the recommendation of the Board of Health, a suitable person to be vaccinating officer in each of the gubernatorial divisions of the Republic, who shall receive such salary, as may, from time to time, be appropriated by the Legislature, and shall be removable from office at the pleasure of said Minister.

§916. Each vaccinating officer shall appoint, at least, three convenient places in each school district throughout his division, for the performance of vaccination; and, from time to time, give public notice of the time when he will attend at such places, to vaccinate all persons not already successfully vaccinated who may then and there appear; and also of the time when he will attend at such place, to inspect the progress of such vaccination in the persons so vaccinated.

§917. The father or mother of every child shall, within six months after the birth of such child, or, in event of the death, illness, or absence of the father or mother, then the guardian, nurse, or person having charge of such child, shall, within six months after its birth, or at the earliest opportunity after, take such child to the vaccinating officer, for the purpose of being vaccinated.

§918. Upon the eighth day, following the day on which any child has been vaccinated, the father, mother, guardian, or other person having charge of said child, shall again take such child to the vaccinating officer, that he may ascertain by inspection the result of such operation.

§919. If the vaccination is found to be successful, the officer shall deliver to the father, mother, or other person having charge



of the child, free of charge, a certificate that the child has been successfully vaccinated, and shall note the same in a book to be kept by such officer for that purpose.

§920. On the presentation of any child to be vaccinated, should the officer deem the child to be in an unfit state to be vaccinated, he may postpone the operation at his discretion, and give due notice to the parents, or person having charge of such child, to reproduce the same for vaccination at a future time.

§921. The vaccinating officers shall visit the several stations appointed by them, at least once in every six months, and oftener, if required so to do by the Minister of the Interior, or Board of Health.

§922. Every parent, guardian, or other person having the charge of any child, who shall refuse or neglect to comply with the provisions of the law respecting vaccination, shall be subject to a fine of five dollars; one half of which shall be paid to the informer.

§923. The several vaccinating officers shall keep a faithful record of their transactions, and make an annual report of the same to the Minister of the Interior.

§924. The vaccination of children required by law may be performed by the officers appointed for such purpose by the Board of Health, or by duly licensed physicians, at the option of the parents or guardians of such children.

Every parent or guardian having the charge of any child who shall fail to cause such child to be properly and successfully vaccinated within the age prescribed by statute, shall be liable to a fine of five dollars.

§925. No child shall be admitted to any public or private school without producing a certificate of vaccination or showing marks of successful vaccination.

The principal or teacher of any public or private school who shall admit to such school any child without such certificate or marks, shall be liable to a fine of five dollars.

§926. No physician or other person shall vaccinate any person in this Republic with matter other than bovine virus. Every person violating the provisions of this section shall upon conviction thereof, be fined not to exceed fifty dollars for each offense.

PART VI.—LAUNDRIES AND WASH HOUSES.

WHEREAS, the increasing number of laundries and wash houses within the limits of the city of Honolulu, tends to the propagation and dissemination of disease;

AND WHEREAS, it is advisable that all laundries and wash houses should be placed under the control and inspection of the Board of Health, therefore,

§927. It shall be lawful for, and the Minister of the Interior is hereby authorized and empowered to cause to be built and erected in the District of Kona, Island of Oahu, a sufficient number of laundries and wash houses, and to let the same to persons applying therefor at such rents, and upon such terms as the said Minister shall deem advisable. And in like manner to designate and use for such purposes buildings already erected.

§928. Such laundries and wash houses when erected shall be under the supervision and control of the Board of Health.

§929. From and after the date of publication of this Act, every person who shall carry on the business of laundry keeping or washing for hire, within the limits of the city of Honolulu, except in such buildings as shall be provided for such purpose, in accordance with the provisions of Section 927, shall be liable to a fine not to exceed fifty dollars for each and every day or part of a day during which he shall so carry on such busi-

ness, and in default of payment of such fine shall be imprisoned at hard labor until such fine is paid.

§930. The city of Honolulu, for the purposes of this Act, shall be deemed to be included within a circuit of three miles, from the junction of Nuuanu and King streets.

§931. Nothing in this Act contained shall be deemed or construed to prevent persons washing in or on the banks of streams, in places hitherto used for that purpose.

#### PART VII.—MANUFACTURE OF POI.

WHEREAS, the manufacture of poi within the limits of the city of Honolulu has been found to constitute a nuisance on account of the large amount of waste and refuse matter resulting therefrom, therefore:

§932. It shall not be lawful, save as hereinafter permitted, to manufacture poi for sale in the District of Honolulu, Island of Oahu, within the following named limits, viz.: On the makai side by the water front; on the Ewa side by Waipilopilo Hill and a straight line drawn mauka and makai at that point; on the mauka side by Wyllie street and a line drawn in extension thereof; on the Waikiki side by Punahou street and a line drawn makai in extension thereof to the water front. It shall not be lawful for anyone to manufacture poi for sale in the said District of Honolulu, outside of said limits, except upon receiving a permit from the Board of Health, which permits may be revoked at any time by said Board.

§933. The Minister of the Interior shall cause to be constructed at a suitable place or places within the limits mentioned in Section 932, with such moneys as may be appropriated by the Legislature, a building or buildings specially designed for the manufacture of poi, which may be rented in sections to those wishing to engage in said manufacture.

§934. Said buildings and the manufacture of poi therein shall be subject to regulations duly made by the Board of Health, and to rules made by the Minister of the Interior.

§935. Each section in said buildings shall be rented annually to the highest bidder at a public sale, due notice of which shall have been given at least two weeks previously. The amount of such annual rental in each case to be not less than a certain upset price to be fixed by the Minister of the Interior.

§936. Anyone engaging in the manufacture of poi contrary to the provisions of this Act shall be deemed guilty of a misdemeanor, and shall, on conviction of the same, be subject to a fine of not less than twenty-five dollars, and not more than one hundred dollars.

§937. This Act shall not take effect until the building or buildings provided for in Section 933 hereof shall have been constructed, and due public notice of the same be given.

#### PART VIII.—SANITARY CONDITION OF DWELLING HOUSES.

WHEREAS, on account of the over-crowding of persons in certain localities, it is expedient to provide for the sanitary condition of dwelling houses and their surroundings, therefore,

§938. Every house or tenement used or occupied as a dwelling for lodgers or contract laborers shall be kept by its owner in good repair, with the roof water-tight, and shall have the capacity of not less than three hundred cubic feet of space for each adult, or nine hundred cubic feet for one man and woman and two children.

§939. The yard and grounds about all dwellings shall be well drained and kept free from rubbish of every description, with a closet, or privy, also to be kept in repair by the lodging-house keeper or employer of laborers, for every six adults.

§940. Every owner or keeper and every other person having the care or management of a lodging-house or of a dwelling for contract laborers, shall at all times when required by the Board of Health or its agents give free access to such house or any part thereof.

§941. Every lodging-house keeper or employer of laborers who shall fail to comply with the provisions of this Act shall pay a fine not exceeding fifty dollars.

§942. Every person who shall keep his dwelling in so filthy a state as to be a nuisance or injurious to health, or who shall refuse or neglect to remove any nuisance or substance he may have caused or placed in the vicinity of the dwelling he occupies or any other dwelling, or shall commit any nuisance in any stream or thoroughfare, shall, on conviction, pay a fine not exceeding three dollars, or be imprisoned at hard labor for any term not exceeding thirty days.

#### PART IX.—IMPROVEMENT OF LAND.

§943. Whenever in the opinion of the Board of Health any tract or parcel of land situated in the District of Honolulu, Island of Oahu, shall be deleterious to the public health in consequence of being low, and at times covered or partly covered by water, or of being situated between high and low water mark, or of being improperly drained, or incapable by reasonable expenditure of effectual drainage, or for other reason in an unsanitary or dangerous condition, it shall be the duty of the Board of Health to report such fact to the Minister of the Interior, together with a brief recommendation of the operation deemed advisable to improve such land.

§944. It shall be the duty of the Minister of the Interior upon the receipt of such notice, to cause a copy of same to be served upon the owner or owners of such land, and also a notice that in case such owner or owners fail to carry out the improve-

ments recommended by the Board of Health within thirty days, or such further time in special cases as to such Minister may seem reasonable, that such work will be done by the Government at the cost of such owner.

§945. Service of such notice upon the owner in person, if resident within the Republic, or upon his agent if a non-resident, or upon the occupant of such land if the owner be unknown, or upon the guardian if the owner be a minor or person under guardianship, shall be deemed good and sufficient service. If such land is unoccupied and the owner or his place of residence be unknown, or if he be under age or incompetent, having no guardian in this country, such notice shall be published for three consecutive weeks at least once each week, in some newspaper published in Honolulu; and such publication shall be deemed good and sufficient notice. The notice in all cases may be general in terms and addressed to all persons whom it may concern.

§946. During the period of thirty days mentioned in Section 944, the owner or claimant of the land sought to be improved, his attorney or agent, may file an appeal from the decision of the Board of Health condemning the land as deleterious to the public health, with the Minister of the Interior, whereupon the Minister shall transmit the appeal to the District Magistrate of Honolulu.

§947. Whenever an appeal shall be made as provided in Section 946, the Minister of the Interior shall appoint two disinterested persons to act in conjunction with the District Magistrate to whom the appeal shall have been transmitted, who shall sit as a Board of Commissioners to hear and determine the question as to whether or not the land is deleterious to public health, and a decision of a majority of the Commissioners shall be final and conclusive upon all parties in interest; the Commissioners appointed by the Minister of the Interior shall be entitled to receive as compensation the sum of five dollars per day of actual sitting.

§948. In case no appeal shall be made from the decision of the Board of Health condemning the land as deleterious to the public health, or the Board of Commissioners shall so find, then the nature of the improvement to be made shall be subject to review by the Minister of the Interior, whose conclusion shall also be final and not subject to review, except by the Executive Council.

§949. If such land remains unimproved for thirty days from the date of the service of such notice, or of such publication, or for the extended time granted by said Minister, it shall be the duty of the Minister of the Interior, in case no appeal is filed in accordance with Section 946, to forthwith carry out the recommendations of the Board of Health, or such modification of the same as the Executive Council may direct. The cost of such improvement shall constitute a lien upon said premises, which shall have priority over all others liens.

§950. There shall be recorded in the office of the Registrar of Conveyances a notice of the amount of such lien and a brief description of the land on which the same is a charge, together with the name of the last known owner. A notice of the amount of such lien shall also be served upon the owner if within the reach of service, or published in the manner above provided.

§951. Said lien may be foreclosed at any time after six months and within three years from the date of the notice last named, by suit in equity or by public sale by such Minister. Foreclosure without suit shall be preceded by the publication of a notice naming the time and place of such sale, the amount of such lien, and the location of such land, for at least three times, in a weekly paper published in Honolulu. Said premises shall be offered at public auction at an upset price equal to the amount of said lien, and the cost of all advertising incurred, and if no higher price is bid, shall be knocked down to the Hawaiian Government. Such sale shall be effectual to convey the title to such purchaser. Only the balance of the amount received after

satisfying such lien shall be subject to suit by any claimant. In case of a surplus and uncertainty as to the person, such surplus shall be deposited in the Postal Savings Bank for the benefit of whom it may concern.

§952. All such liens shall be presumed to have been satisfied at the expiration of three years from the date of record.

#### PART X.—BIRTHS, DEATHS AND MARRIAGES.

##### DEFINITIONS.

§953. Wherever in this Act the word "Board" is used, it shall refer to and mean the Board of Health of the Republic of Hawaii, unless the context shall indicate some other meaning.

Wherever in this Act the word "Registrar" is used, it shall refer to and mean the Registrar or Registrars of Births, Deaths and Marriages, who shall be appointed by the Board of Health under and by virtue of this Act.

##### REGISTRARS OF BIRTHS, DEATHS AND MARRIAGES.

§954. The Board is hereby empowered and directed to appoint a Registrar of Births, Deaths and Marriages in and for each Judicial District in the Republic.

The Board may, in its discretion, subdivide any district, if the public convenience requires it, and appoint a Registrar for each of such subdivisions.

§955. It shall be the duty of each Registrar to keep in proper books, used solely for such purpose, a full and complete record of all the births, deaths and marriages which take place in the district of which he is the Registrar.

##### FACTS TO BE RECORDED.

§956. Each Registrar shall enter in said record, in respect of each birth occurring in his district, the following facts, so far as they can be ascertained by him, viz.:



The name of the father, the name of the mother, the date of the birth, the sex of the child, the name of the child, if it has been named, the locality of its birth, and whether the child is legitimate or illegitimate.

§957. Each Registrar shall enter in said record, in respect of each death occurring in his district, the following facts, so far as they can be ascertained by him, viz.:

The name, sex, age, cause of death, nationality, last place of residence, and the locality of the death of the deceased, name of physician attending, if any.

§958. Each Registrar shall enter in said record, in respect of each marriage occurring in his district, the following facts, so far as they can be ascertained by him, viz.:

The full name of each of the parties, the full name of the father and mother of each of the parties, the age of each of the parties, and the residence of each of the parties.

#### DUTIES OF REGISTRARS.

§959. It shall be the duty of each Registrar in and for his district, not only to compile the information furnished to him by the persons who by this Act are directed to furnish him with information, but himself to investigate and procure and record the information hereby directed to be recorded.

It shall also be the duty of each Registrar to prosecute or cause to be prosecuted any person who shall violate or fail to observe or perform any of the requirements of this Act, or any of the rules and regulations made and published by the Board under or by virtue of this Act.

§960. It shall be the duty of each Registrar at the end of each month to transmit to the Board a full copy of the records of births, deaths and marriages made by him during said month.

§961. The Board shall cause all blanks and record books which may be necessary or proper for carrying out the objects

of this Act to be prepared, and shall furnish the same to the Registrars and other officers herein provided for, free of charge.

SUPERVISION OF BOARD—RULES AND REGULATIONS.

§962. The Board shall have the full supervision of the carrying out of this Act, and shall have the right to direct any or all of the Registrars or other officers herein provided for to keep other records and statistics than those herein provided for; and shall also have the right and authority to make all rules and regulations which in the discretion of the Board are necessary for more effectually securing the registration of full and accurate information concerning births, deaths and marriages.

Such rules and regulations shall, after approval by the Executive Council and publication, have the force and effect of and shall be law.

REPORTS BY INDIVIDUALS.

§963. It shall be the duty of the father of each and every child born in the Republic of Hawaii; or if the father be absent from the country at the time of the birth, or not living, or if the child be illegitimate, then it shall be the duty of the mother of such child, within thirty days after the birth of such child, to notify the Registrar of Births, Deaths and Marriages of the District in which such birth takes place, of the date of birth, sex and name of such child, if named; the names of the parents of such child, whether it is legitimate or illegitimate, and the locality of the birth.

It shall also be the duty of every physician who shall attend, or be called upon in connection with the birth of any child in the Republic of Hawaii, within thirty days after such birth, to report such birth and the other facts relating to such child in this section above set forth.

REPORTS TO REGISTRAR OF DEATHS.

§964. It shall be the duty of every owner of any building or premises in or upon which the death of any person shall take

place in the Republic of Hawaii, to immediately report said death to the Registrar of the District in which it took place, giving so far as he is able to do so the name, sex, age, cause of death, nationality, last place of residence of the deceased and the locality in which the death took place; or if the building or premises in or upon which said death takes place is leased or occupied by some one other than the owner thereof, then it shall be the duty of the lessor or occupier of said building or premises to immediately report to the Registrar all of the facts in this section hereinbefore set forth.

§965. It shall be the duty of every minister of religion who shall officiate at any burial of any deceased person, and of every undertaker or other person who attends to the burial of any deceased person, and of every hospital officer, health agent, and of every relative of any deceased person, to give to the Registrar of the district in which such death has taken place, all the information within their knowledge concerning any deceased person, if and whenever said Registrar shall request the same.

§966. It shall be the duty of every person legally authorized to perform the marriage ceremony, who shall at any time perform the marriage ceremony, to immediately report each such marriage to the Registrar of the district in which such marriage takes place, and state to him the full names, the age, the residence, the nationality, and the full names of each of the parents of each of the parties to such marriage.

§967. It shall be the duty of every person legally authorized to grant licenses to marry, to immediately upon the issuing of any marriage license, report to the Registrar of the district in which such marriage license is issued, the full names, the age, the residence, the nationality, and the full names of each of the parents of each of the parties by such license authorized to marry.

§968. It shall be the duty of the Secretary of the Board to copy into books provided by the Board for that purpose, all

of the records of births, deaths and marriages received from the several Registrars.

The records of births, deaths and marriages, and the island and districts in which they occurred, shall each be kept separately in chronological order.

§969. All records by this Act directed to be kept shall, during all business hours, be open to the inspection of the public.

§970. The Secretary of the Board shall furnish to any person applying for the same, a certified copy of the record of any birth, death or marriage contained in any of the records kept under or by virtue of this Act; such certified copy shall be competent evidence in any Court of the fact therein contained, for which certified copy the sum of one dollar shall be charged and paid and accounted for to the Public Treasury.

#### PENALTIES.

§971. Any person who shall violate or who shall fail to observe or perform any of the requirements of this Act, or any requirement of any rule or regulation made and published by the Board under or by virtue of this Act, shall, upon conviction of such violation or failure before any District Court, be fined for such violation or failure a sum not to exceed fifty dollars.

§972. If any physician, Sheriff, Deputy Sheriff, Magistrate or Assessor is appointed a Registrar, it shall become a part of his official duties to perform the duties of Registrar without further compensation.

#### NOTE TO CHAPTER 59.

##### PART I.

§ 868 is P. G. Act 18.

§§869-874 are P. C. Ch. 59, §§3-8.

§875 is S. L. 1876, Ch. 11, C. L. p. 76.

§876 is P. C. Ch. 59, §31.

## PART II.

§§877-880 are P. C. Ch. 59, §§9-12.  
 §§881-883 are S. L. 1870, Ch. 9, C. L. 254.  
 §884 is P. C. Ch. 59, §13.  
 §885 is S. L. 1868, C. L. p. 72.

## PART III.

§§886-893 are P. C. Ch. 59, §§14-21.  
 §§894-898 are S. L. 1892, Ch. 43.  
 §§899-906 are S. L. 1896, Act 28.

## PART IV.

§§907-914 are P. C. Ch. 59, §§22-29.

## PART V.

§§915-923 are P. C. Ch. 59, §§32-40.  
 §§924-926 are S. L. 1892, Ch. 67.

## PART VI.

§§927 and 929 are S. L. 1896, Act 4.  
 §§928, 930 and 931 are S. L. 1880, Ch. 8, C. L. p. 640.

## PART VII.

§§932-937 are S. L. 1888, Ch. 17.

## PART VIII.

§§938-942 are S. L. 1880, Ch. 3, C. L. pp. 463 and 637.

## PART IX.

§§943-952 are S. L. 1896, Act. 61.

## PART X.

§§953-972 are S. L. 1896, Act 50.

Cases in Hawaiian Reports: *R. v. Tong Lee*, 4 Haw. 335; *Minister v. Hackfeld*, 4 Haw. 420; *The Madras*, 5 Haw. 116; *Segregation of Lepers*, 5 Haw. 164; *Hutchinson v. Nebraska*, 6 Haw. 100; *Peterson v. Carter*, 6 Haw. 285; *Lopez v. Ah Man*, 7 Haw. 2; *Rego v. Mahoe*, 7 Haw. 624; *Re Cabinet*, 8 Haw. 568; *R. v. Kum See*, 10 Haw. 491.

## CHAPTER 60.

## CORONER'S INQUEST.

§973. The Marshal, Deputies-Marshal, Sheriffs and Deputies-Sheriff, and in all other districts than Honolulu and Lahaina, the several District Magistrates shall *ex officio* act as Coroners, without extra compensation.

§974. As soon as any Coroner shall have notice of the death of any person, within his jurisdiction, supposed to have come to such death by poisoning, violence, or in any suspicious manner, he shall forthwith issue his summons to six good and lawful men of the district where such death may have occurred, or in which the dead body may have been found or is at the time lying, to appear before him at the time and place expressed in the warrant, then and there to inquire upon the view of the body of the deceased, when, how, and by what means he came to his death. All persons summoned to attend on a Coroner's jury shall serve without pay; and if any person summoned to serve on such jury shall fail to appear, without reasonable excuse therefor, he may be fined by the Coroner, not exceeding five dollars; and the Coroner may issue process to any Constable for the collection of any fines thus imposed.

§975. If the six jurors summoned shall not all appear, the Coroner may summon other jurors from the bystanders, or others, to complete the number.

§976. When the jury is complete the Coroner shall call over their names, and then in view of the body he shall administer to them the following oath:

You solemnly swear that you will diligently inquire, and true presentment make, when, how, and by what means the person whose body lies here dead came to his death; and you shall return a true inquest thereof according to your knowledge, and such evidence as shall be laid before you: So help you God.

§977. The Coroner may issue subpoenas for witnesses, returnable forthwith, or at such time and place as he shall therein direct, and may enforce the same by fine or imprisonment, or both, in the discretion of said Coroner.

§978. An oath to the following effect shall be administered by the Coroner to the witnesses:

You solemnly swear that the evidence which you shall give to this inquest, concerning the death of the person here lying dead, shall be the truth, the whole truth, and nothing but the truth: So help you God.

§979. The testimony of all witnesses examined before any inquest shall be reduced to writing by the Coroner, or some other person by his direction, and subscribed by the witnesses.

§980. The jury, upon the inspection of the dead body, and after hearing the testimony of the witnesses, and making all needful inquiries, shall draw up and deliver to the Coroner their inquisition under their hands.

§981. Every Coroner's jury shall, if possible, find and certify when, how, and by what means the deceased person came to his death, and his name if it was known, together with all the material circumstances attending his death; and if it shall appear that he was murdered, the jury shall state who were guilty, either as principal or accessory, if known, or were in any manner the cause of his death. The form of the inquisition may be in substance as follows:

An inquisition taken at . . . . ., Island of . . . . ., on the . . . . . day of . . . . ., in the year . . . . ., before . . . . ., one of the Coroners of said Island, upon the body

of . . . . ., (or, a person) there lying dead, by the oaths of the jurors whose names are hereunto subscribed, who being sworn to enquire when, how, and by what means the said . . . . ., (or person) came to his death, upon their oaths do say, (then insert when, how, and by what person, if known, means, weapons, or instruments he was killed). In testimony whereof, the said Coroner, and the jurors of this inquest, have hereunto set their hands, the day and year aforesaid.

§982. . If the jury find that any murder, manslaughter, or assault had been committed on the deceased, the Coroner shall bind over by recognizance; or, if necessary, commit to jail, such witnesses as he shall think proper, to appear and testify upon the trial of any person who may be indicted for such offense. The Coroner shall return to the Court before which such trial is to be had, the inquisition, written evidence, and all recognizances and examinations by him taken.

§983. If any person charged by the inquest with having committed such offense, shall not be in custody, the Coroner shall have the power to issue process for his apprehension, and such process shall be made returnable before any District Magistrate, or any other Magistrate or Court having jurisdiction in the case, who shall proceed therein in the same manner as if he had issued such process himself.

§984. When any Coroner shall take an inquest upon the dead body of a stranger, or, being called for that purpose, shall not think it necessary on view of such body, that any inquest should be taken, he shall cause the body to be decently buried.

§985. No fees shall be paid to jurors or witnesses attending upon any Coroner's inquest, but all the reasonable expenses of the inquisition shall be paid to the Coroner from the Public Treasury, the account of such expenses being first examined and allowed by the Minister of the Interior.



CORONER'S INQUEST.

325

NOTE TO CHAPTER 60.

§973 is S. L. 1892, Ch. 45.

§§974-985 are P. C. Ch. 60, §§2-13.

CHAPTER 61.

FOR THE PROTECTION OF PLACES OF SEPULTURE.

§986. If any person, not having any legal right to do so, shall wilfully dig up, disinter, remove or convey away any human body from any burial place, or shall knowingly aid in such disinterment, removal or conveying away, every such offender and every person accessory thereto, either before or after the fact, shall be punished by imprisonment at hard labor for not more than two years, or by a fine not exceeding one thousand dollars.

NOTE TO CHAPTER 61.

§986 is P. C. Ch. 61 unaltered.

CHAPTER 62.

TO PREVENT THE SPREAD OF LEPROSY.

PART I.—SEGREGATION.

§987. The Minister of the Interior, acting as President of the Board of Health, is hereby expressly authorized, with the approval of the said Board, to reserve and set apart any land or portion of land now owned by the Government, for a site or sites of an establishment or establishments to secure the isolation and seclusion of such leprosy persons as in the opinion of the Board of Health or its agents may, by being at large, cause the spread of leprosy.

§988. The Minister of the Interior, as President of the Board of Health, and acting with the approval of the said Board, may acquire for the purpose stated in the preceding section, by purchase or exchange, any piece or pieces, parcel or parcels of land, which may seem better adapted to the use of lepers than any land owned by the Government.

§989. The Board of Health, or its agents, are authorized and empowered to cause to be isolated and confined, in some place or places for that purpose provided, all leprosy patients who shall be deemed capable of spreading the disease of leprosy; and it shall be the duty of every District Magistrate, when properly applied to for that purpose by the Board of Health or its authorized agents, to cause to be arrested and delivered to the Board of Health or its agents, any person alleged to be a leper, within the jurisdiction of such District Magistrate; and it shall be the duty of the Marshal of the Hawaiian Islands and his deputies, and of the police officers, to assist in securing the

conveyance of any person so arrested, to such place as the Board of Health or its agents may direct, in order that such person may be subjected to medical inspection, and thereafter to assist in removing such person to a place of treatment, or isolation, if so required by the agents of the Board of Health.

§990. The Board of Health is authorized to make arrangements for the establishment of Hospitals on each island where leprous patients in the incipient stages may be treated in order to attempt a cure; and the said Board and its agents shall have full power to discharge all such patients as it shall deem cured, and to send to a place of isolation contemplated in Sections 987 and 989, all such patients as shall be considered incurable or capable of spreading the disease of leprosy.

§991. The Board of Health or its agents may require from patients such reasonable amount of labor as may be approved of by the attending physicians; and may further make and publish such rules and regulations as by the said Board may be considered adapted to ameliorate the condition of lepers, which said rules and regulations shall be published and enforced as in Sections 873 and 874 provided.

§992. No person, not being a leper, shall be allowed to visit or remain upon any land, place or inclosure set apart by the Board of Health for the isolation and confinement of lepers, without the written permission of the President of the Board, or some officer authorized thereto by the Board of Health, under any circumstances whatever, and any person found upon such land, place or enclosure without a written permission, shall, upon conviction thereof before any District Magistrate, be fined in a sum not less than ten nor more than one hundred dollars for such offense, and in default of payment, to be imprisoned at hard labor until the fine and costs of Court are discharged in due course of law.

§993. It shall be lawful for the Board of Health, through its President, to make and promulgate such rules and regulations

as may be from time to time necessary for the government and control of the lepers placed under their charge, and such rules and regulations shall have the same force and effect as a statute law of the Republic; provided, always, that the sanction of the President in Cabinet Council be given thereto, and that they be published in two newspapers, published in Honolulu, one in the Hawaiian, the other in the English language.

§994. The Board of Health, while keeping an accurate and detailed account of all sums of money expended by them out of any appropriations which may be made by the Legislature, shall keep the account of sums expended for the leprosy distinct from the general account. And the said Board shall report to the Legislature at each of its regular sessions, the said expenditures in detail, together with such information regarding the disease of leprosy, as well as the public health generally, as it may deem to be of interest to the public.

§995. The Board of Health is hereby authorized to permit any person to engage in the treatment of lepers or of persons supposed to have leprosy. Such permits shall be under such conditions and regulations as the Board shall prescribe, and be revocable at the pleasure of the Board.

§996. Whoever shall knowingly detain or harbor upon premises subject to his control, or shall in any manner conceal or secrete, or assist in concealing or secreting, any person afflicted with leprosy, with the intent that such person be not discovered by or delivered to the Board of Health, or its agents; or who shall support or assist in supporting any person having leprosy living in concealment, shall be deemed guilty of a misdemeanor, and shall, on conviction thereof before any District Magistrate, be liable to a fine of not more than one hundred dollars.

§997. It shall be the duty of every police officer or Deputy Sheriff having reason to believe that any person within his district is afflicted with leprosy, to report the same forthwith to

### 330 TO PREVENT THE SPREAD OF LEPROSY.

the agent of the Board of Health in such district, if any, otherwise to the nearest agent of the Board of Health.

§998. Any police officer or Deputy Sheriff who shall wilfully fail to comply with the provisions of Section 997 shall be deemed guilty of a misdemeanor, and, upon conviction thereof before any District Magistrate, shall be fined in a sum not less than ten dollars, nor more than two hundred dollars, and shall be dismissed from office.

#### PART II.—KOKUAS.

WHEREAS, it is deemed expedient that the husband or wife of a leper should, in ordinary cases, be allowed to remain as a helper or kokua with such leper when segregated;

AND, WHEREAS, it is inexpedient to allow the privilege aforesaid without giving the Board of Health full power and control over helpers or kokuas, owing to the fact that many kokuas become infected with leprosy, and capable of communicating the same to others, though showing no signs of the disease themselves: therefore,

*Be it Enacted, etc.*

§999. Voluntary helpers or kokuas living with lepers segregated by the Board of Health may be by such Board declared infected with the disease of leprosy, and capable of communicating the same to others. All such kokuas are hereby placed under control of the Board of Health, and may be prevented by it from intermingling with those free from the disease.

§1000. The Board of Health, with the consent of the Cabinet, is empowered to make and promulgate such rules and regulations in regard to said helpers or kokuas for their care, discipline and maintenance as may be deemed necessary, which rules and regulations shall have the force and effect of law when promulgated.

## TO PREVENT THE SPREAD OF LEPROSY. 331

WHEREAS, many doubts and disputes have arisen as to what the duties to be performed by those persons who have become "kokuas" of those afflicted with leprosy consist of; and, WHEREAS, it is proper in order to remove such difficulty that the nature of such duties to be performed by such kokuas be distinctly provided for by law; therefore,

*Be it Enacted, etc.*

§1001. Every kokua who has heretofore received permission, or who may hereafter get permission to go to the Leper Settlement, according to law, shall perform the duties of kokua to their leper friends as provided in the Section 1002 and in no other way.

§1002. The duties to be performed by the kokuas of the lepers shall be that each kokua must take care of the leper or lepers that he went there to assist, and to go and get and prepare in a suitable manner all food and other supplies that are furnished by the Government to the lepers, and attend to the clothing and other things that would contribute to the comfort of the lepers whose kokuas they are. And said kokuas shall also perform such labor and service as may be required by the Board of Health when requested to do so by the Superintendent of the Leper Settlement, for which services they shall be paid such wages as are deemed fair and just by the Board of Health, such wages to be not less than fifty cents per diem. And any kokua refusing to perform such labor as above stated, or who shall violate any rule or regulation of the Board of Health, shall be liable on conviction before a District Magistrate to expulsion from the settlement.

### PART III.—TRANSPORTATION.

§1003. No steam coasting vessel licensed to carry passengers and engaged in the regular performance of that business, according to published schedules of sailing times, and whose net ton-

## 332 TO PREVENT THE SPREAD OF LEPROSY.

nage exceeds two hundred and fifty tons, shall be compelled or allowed while so engaged, to carry to or from any port or place in the Hawaiian Islands any leper or any person or persons suffering from any contagious or infectious disease.

§1004. The master or owner of any such vessel knowingly violating the provisions of Section 1003 shall be guilty of a misdemeanor, and upon conviction before any District Magistrate shall be fined in a sum not to exceed two hundred dollars.

§1005. Any person violating the provisions of this Act shall be deemed guilty of a misdemeanor, and upon conviction thereof before any District Magistrate shall be fined in a sum not to exceed two hundred dollars.

### PART IV.—ACQUISITION OF LAND.

#### GOVERNMENT RESERVATION.

§1006. The Minister of the Interior is hereby empowered to purchase all lands, the title to which is now held and owned by private persons within the precincts of the Government Reservation, used for the Leper Settlement at Molokai.

§1007. In every case where no agreement about the price of such lands can be made between the Minister of the Interior and the owners, there shall be appointed three disinterested persons who shall appraise the value of said lands and improvements; one of whom shall be appointed by the Minister of the Interior, one by the owner of the land, and the two thus appointed shall choose the third member, and such appraisement shall be binding upon the parties, unless the party who may be dissatisfied with such appraisement shall, within twenty days after notice of such appraisement, appeal therefrom.

§1008. The appeal mentioned in Section 1007 shall be taken to the Supreme Court, sitting in Banco, who shall decide the question upon the testimony presented before the appraisers,



and no new evidence shall be allowed to be given on such appeal. The Supreme Court may, upon such appeal, approve, reverse or modify the appraisal; and such decision of the Supreme Court shall be final and binding upon the parties to the controversy, and the owner of said land shall not be subjected to the payment of the costs of such appeal.

§1009. The owner of such lands shall deliver possession of the same to the officers in charge of the Leper Settlement within sixty days after the appraisal becomes final, and the Minister of the Interior shall forthwith, after such delivery, pay to the owner the sum fixed by the appraisal or decision; and upon such payment the title to said lands shall become and remain vested in the Government.

§1010. A copy of the appraisal or decision, duly certified with the certificate of the Minister of the Interior, of the payment or tender of the sum appraised or decreed duly acknowledged by said Minister, shall be recorded and be deemed sufficient record evidence of the change of title.

ON MOLOKAI.

§1011. The Minister of the Interior is hereby authorized and empowered to enter upon and take possession of and hold for the use of the Government, such land, real estate and property wheresoever situated on the Island of Molokai in the Hawaiian Islands, as may be required by the Board of Health for the segregation and confinement of lepers, or for other purposes of the Board of Health.

§1012. Whenever the Board of Health may require any parcel of land or property on the Island of Molokai for any such purposes, the President of the Board shall so inform the Minister of the Interior in writing, stating the location and area of such land or property so far as may be known to him, and the purpose for which the same is required, with a request that the

same be acquired by the Government. If upon receipt of such request and information the said Minister shall deem the same to be reasonable and proper, he shall, after first giving thirty days written notice to the occupants of such land or property, take possession of the same for the use of the Government. Provided, however, that if such land or property is not actually occupied by any person, the said Minister may take immediate possession of the same.

§1013. Whenever the Minister of the Interior shall proceed to take possession of any land or property under the provisions of this Act, he shall first endeavor to agree with the owners (if known to him) of such land or property upon the amount to be paid them for the land or property taken or proposed to be taken, or to compromise with them, and in case of failure to agree with them he shall appoint three competent and disinterested persons to act as commissioners to ascertain and determine such compensation.

§1014. The commissioners so appointed shall give notice to the owners, if known to them and resident within the Hawaiian Islands, whose property has been taken or is proposed to be taken. If the owners of such land or property be unknown or cannot be served by reason of non-residence or other cause, then a notice posted in a conspicuous place on the land or property, or left at the owner's, occupant's, tenant's or agent's residence shall be deemed sufficient notice. Such notice may be in general terms and addressed to all persons interested.

§1015. Such notice shall describe the land or property taken or proposed to be taken, and state the time and place at which the commissioners will meet to hear the claimants and take evidence as to the amount of compensation to which they are entitled. At every such meeting the commissioners shall take such testimony as they deem necessary, and they or a majority of them shall determine upon the proper compensation to be made. The decision arrived at by the commissioners shall be final and

binding unless an appeal is taken as hereinafter provided. The commissioners shall have power to administer oaths, subpoena witnesses and grant continuances in like manner as District Magistrates.

§1016. The commissioners, or a majority of them, shall make, subscribe and file with the Minister of the Interior, within such reasonable time as shall be fixed upon by said Minister, a certificate of their findings and appraisalment, in which the land or property so valued shall be described with convenient accuracy and certainty.

§1017. Upon the filing of the certificate as provided in the preceding section, the Minister of the Interior is hereby authorized to pay to the person or persons named in the certificate the several amounts determined upon by the commissioners, out of any appropriation available for the purpose; provided, always, that either party feeling aggrieved by the decision of the commissioners may appeal to the Circuit Court of the First Judicial Circuit.

§1018. All appeals must be taken within twenty days after the date of the filing of the certificate with the Minister of the Interior, by filing with the commissioners a written notice of appeal, and filing with the Clerk of the Judiciary Department a bond in the sum of fifty dollars, conditioned to secure payment of future costs. Provided, however, that fifty dollars in money may be deposited in lieu of a bond.

Such appeal shall not prevent the Minister from retaining or taking possession of the land or property mentioned and valued in the certificate.

§1019. A copy of the final appraisalment or decision duly certified by the Minister of the Interior under the seal of his office shall be recorded in the office of the Registrar of Conveyances, and shall operate as a deed of conveyance in fee simple

## 336 TO PREVENT THE SPREAD OF LEPROSY.

from the owners of the land or property to the Hawaiian Government.

§1020. The Minister of the Interior shall, on receiving the certificate of appraisalment, pay to the commissioners such reasonable compensation for their services as he shall determine upon, and he shall have power to fill any vacancy in their number caused by death or otherwise.

### NOTE TO CHAPTER 62.

#### PART I.

§§ 987-989 are P. C. Ch. 62, §§1-3.  
§990 is S. L. 1884, Ch. 24.  
§991 is P. C. Ch. 62, §5.  
§§992-993 are S. L. 1870, Ch. 33, C. L. p. 522.  
§994 is P. C. Ch. 62, §7.  
§995 is S. L. 1892, Ch. 54.  
§§996-997 are S. L. 1892, Ch. 66.  
§998 is S. L. 1888, Ch. 74.

#### PART II.

§§999-1000 are S. L. 1888, Ch. 61.  
§§1001-1002 are S. L. 1890, Ch. 79.

#### PART III.

§1003 is P. G. Act 30, also S. L. 1888, Ch. 48.  
§1004 is P. G. Act 30.  
§1005 is S. L. 1888, Ch. 48.

#### PART IV.

§§1006-1010 are S. L. 1884, Ch. 37.  
§§1011-1020 are P. G. Act 55.  
The Attorney-General is now President of the Board of Health. See Chapter 59.

P. C. Ch. 62, §6 was repealed S. L. 1874, Ch. 11.

Cases in Hawaiian Reports: Segregation of Lepers, 5 Haw. 162;  
Re Cabinet, 8 Haw. 568.

## CHAPTER 63.

## FIRES AND FIREPROOF BUILDINGS.

## PART I.—FIRE DEPARTMENT OF HONOLULU.

§1021. There shall be a Fire Department for the City of Honolulu, which shall consist of a Board of Commissioners consisting of three members, who shall be appointed by the Minister of the Interior, with the consent of the Executive Council, and commissioned for two years, and who shall serve without pay; a Chief Engineer, who shall be appointed by the Board of Commissioners. There shall be three or more fire companies under pay, in the discretion of the Board of Commissioners, and such other volunteer companies as the Commissioners shall deem fit. The general care and supervision of the department shall be under the direction of the Board of Commissioners, who shall also have power to issue such general rules and regulations for the government of the department as they shall deem necessary. The Minister of the Interior, with the consent of the Executive Council, may remove any Commissioner for cause, and may fill all vacancies in the Board of Commissioners.

§1022. The Chief Engineer shall have the care, control and custody of the property of the Fire Department, and shall be responsible to the Board of Commissioners for the same; and he shall also, by and with the approval of the Board of Commissioners, make all expenditures of moneys appropriated for the Honolulu Fire Department; and he shall not contract any debts on behalf of the department, or dispose of any property belonging to the same, without the consent of the Board of Commissioners. In all cases of fire he shall have the sole and absolute control

and command over all members of the entire department; and it shall be his duty to cause the several engines and apparatus to be located in the most advantageous situations, and duly worked for the effectual extinguishing of fires. He may, with the approval of the Board of Commissioners, grant the custody and use of fire engines, fire buckets, and other fire apparatus belonging to the Government, to such firemen as he may deem proper, and assume the control of the same with the said Commissioners' approval. He shall, as often as once a month, examine into the condition of the fire engines, houses, fire buckets, and other fire apparatus, and shall every six months report and return to the Board of Commissioners the expenses of the Fire Department for such period, the number of fires which have occurred during the period, with the names of owners and occupants of the premises or property damaged or destroyed; the cause or origin of the fire, if known, and the amount of loss or damage, and of the insurance on the property, the condition of the fire-engines, carriages, apparatus and property of the department, and the standing and condition of the companies. When any of said fire-engines shall require to be repaired, the Chief Engineer shall cause the same to be well and sufficiently repaired.

§1023. In case the Chief Engineer shall be absent from a fire, the senior foreman shall assume his duties.

§1024. The Chief Engineer shall divide the City of Honolulu into fire districts, and report their boundaries to the Board of Commissioners, and shall keep a record of the names of the occupants of the houses or other buildings where he shall observe any violation of the provisions of this law.

§1025. It shall be the duty of the Chief Engineer, once every three months, and as much oftener as he may deem proper, to examine the dwelling houses, stores, places of business and other buildings in the respective districts, for the purpose of ascertaining any violation of this law; and also to examine the fire places, hearths, chimneys, stoves and stove-pipes in the re-

spective districts, and upon finding any of them defective or dangerous, he shall direct the owner or occupants of said premises, by written or printed notice, to alter, remove or amend the same, and in case of neglecting to do so, the party offending shall be guilty of a misdemeanor and punished on conviction as hereinafter provided. The Chief Engineer shall once in every three months, and as much oftener as may be necessary, make full report of all matters relating to his duties to the Board of Commissioners, and also shall report to the Minister of the Interior each week any violations of the laws relating to fireproof buildings.

§1026. It shall be the duty of all firemen, whenever any fire shall break out in the city, to repair immediately to said fire with their respective engines, hose, carriages, hooks, ladders and other apparatus, and there to work and manage such fire engines and other fire implements with all their skill and power, as the Chief Engineer may direct, and they shall not remove therefrom without the permission of the Chief Engineer.

§1027. If any fireman shall neglect to attend any fire, or leave his engine or other apparatus while at any fire without permission, or shall neglect to do his duty on such occasion without reasonable excuse, he shall, for every such default, pay such penalty as the majority of the Board of Commissioners shall fix; and may, by a vote of the majority of said Commissioners, be dismissed as a fireman.

§1028. No person or persons shall break through, or attempt to break through, any blockade established by the Department, or run over with any vehicle the line of hose in use at a fire; and any person so doing shall be guilty of misdemeanor and be subject to fine of not more than two hundred and fifty dollars.

§1029. No person shall, unless by permission of the Chief Engineer, kindle any fire, nor in any way authorize any fire to be made in any street, road, lane, market-place or other high-

way, or on any pier or wharf in the city, except for the purpose of boiling tar, which fire shall not be more than ten feet from the end of the pier or wharf; and no person shall kindle or light, or cause to be lighted, any rubbish or any bonfire in any place whatsoever within a radius of one mile of the present site of the Bell Tower of Honolulu without the permit in writing of the Chief Engineer.

§1030. The Chief Engineer, by and with the approval of a majority of the Board of Commissioners, may direct any house or building to be pulled down, blown up or otherwise demolished, when they deem the same to be necessary, in order to prevent the spreading of a fire.

§1031. The Chief Engineer may, during the continuance of a fire, require assistance from persons present for extinguishing the same, and for removing furniture, goods, merchandise and property from a building on fire or in danger thereof, and may appoint guards to secure the same. He may also require assistance for pulling down or demolishing a house or building when he judges it necessary, and may suppress all tumults and disorders at such fire. All persons at a fire shall obey the orders of the Chief Engineer.

§1032. During the prevalence of a fire it shall be lawful for the Chief Engineer, the foreman of companies, the Marshal and his Deputies, to remove or cause to be removed, and kept away from the vicinity of such fire, by force if advisable, all idle and suspicious persons, and all persons in their judgment not fit to be employed, or not actually and usefully employed in aiding the extinguishing of such fire, or in the preservation of property in the vicinity thereof.

§1033. Any person cutting, or in any way wantonly or intentionally injuring any portion of the fire apparatus, shall be deemed guilty of misdemeanor, and, upon conviction thereof, shall be fined a sum not exceeding two hundred and fifty dollars.



§1034. It shall be the duty of all persons owning or occupying premises adjacent to a fire to allow free access to the same by the Fire Department, upon the order of the Chief Engineer or Foreman of Engines, for the purpose of obtaining water or using the fire apparatus for the extinguishing of any fire; and in case such access is refused, the Chief Engineer, or the person acting in his place is hereby authorized forcibly to enter such premises for the purposes aforesaid; and no person shall refuse such free access, or in any way obstruct the same.

§1035. All engines, carriages, and other movable apparatus of the Honolulu Fire Department shall have the paramount right of way through all streets, lanes, alleys, highways, and byways, places and courts of the city and fire districts of Honolulu, when running to a fire, and such apparatus, together with all other vehicles thereto, excepting street cars, shall take and keep the right side of the street, unless the same be obstructed, and all street cars in the vicinity of any such apparatus going to a fire, shall retard or accelerate their speed, as may be required, in order to give the apparatus of the Fire Department the unobstructed use of the street for the time being.

§1036. No person or persons having the control of any vehicle shall wilfully or carelessly permit the same to obstruct the progress of the apparatus of the Honolulu Fire Department going to a fire.

§1037. Whoever, wilfully, wantonly, or maliciously obstructs or retards the passage of an engine, or any fire apparatus of the Fire Department, while going to or at a fire, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine not exceeding two hundred and fifty dollars.

§1038. Every building occupied as a dwelling-house, or a store-house, or a regular place of business in Honolulu, shall be furnished with at least two fire buckets, which shall be kept in

good condition, ready for use, in a conspicuous place, and upon which the name of the owner shall be painted, provided that an order to that effect in writing or printing shall first be given to the occupants of any such building, by the Chief Engineer; and all such occupants who shall receive such order shall within five days thereafter, provide, furnish and maintain fire buckets as aforesaid.

§1039. The occupant, or occupants, of any building which may be on fire, or in danger from any fire in its vicinity, in which any explosive material or compound shall be stored or kept shall, immediately after the breaking out of such fire, give notice to the Chief Engineer or either of the Foremen who may be in command at such fire, of the nature, quantity and place of storage of such explosive substance or compound, and shall also at said time give like notice to the owners or occupants of all adjacent buildings.

§1040. No person shall wilfully give a false alarm of fire in Honolulu.

§1041. Whosoever purloins, embezzles, conveys away or conceals any furniture, goods, clothes, merchandise or effects, property of persons whose houses, buildings, property or effects are on fire, or endangered thereby, and does not within twenty-four hours return the same, or give notice of his possession thereof to the owner, if known, or, if unknown, to the Chief Engineer, or the Marshal and his Deputies, shall be deemed guilty of larceny, and upon conviction thereof shall be punished as provided by law.

§1042. Any person violating any provisions of this Act shall be deemed guilty of a misdemeanor, and on conviction shall, unless otherwise provided herein, be punished by a fine in a sum of not more than two hundred and fifty dollars.

§1043. The Chief Engineer of the Fire Department, the Foreman of a company, and the Marshal and his Deputies, are

directed to make complaints for violations of the provisions of this Act.

§1044. The District Magistrates shall have jurisdiction to try and determine all misdemeanors arising under this Act, and all complaints for the violation of any of the provisions of this Act, and to impose any of the penalties herein prescribed.

§1045. The Board of Commissioners, the Chief Engineer, the Foreman of each company, and the paid members of the Fire Department, in active, regular employment, shall be exempt from being empanelled or returned upon any juries or inquests, and the names of such persons shall be registered with the Clerk of the Supreme Court, and with the Marshal, by the Chief Engineer.

§1046. The City of Honolulu, for the purpose of this law, shall comprise all the space within a radius of two miles from the present site of the Bell Tower.

§1047. The salary of the Chief Engineer and all other salaries and wages of the paid fire companies shall be determined by the Board of Commissioners, with the consent of the Executive Council.

MONEYS AND ACCOUNTING.

§1048. All moneys belonging to or which shall be appropriated for or to the use or maintenance of the Fire Department of Honolulu, shall be subject to the control of the Board of Representatives of said department in manner as herein provided, and no person or persons, without the consent of said Board of Representatives shall have authority to draw or expend any of the moneys aforesaid or to incur any debt or obligation on account of, or to order any material, apparatus or supplies for said department. Provided, however, that the Chief Engineer or other officer of said department, upon the written

order of said Chief Engineer, may make purchases of material, supplies or apparatus for said department, to an amount not to exceed twenty dollars in any one instance.

§1049. Said Board of Representatives shall pass upon all proposals to purchase material, apparatus and supplies, and upon all bills and accounts other than such as shall come within the above proviso, and if such proposals, bills or accounts are approved by said Board, such approval shall be certified by the Secretary of said department upon such proposals, bills or accounts respectively, and such proposed purchase shall not be made, nor such bills or accounts be paid without such approval. Neither shall such proposals to purchase material, apparatus or supplies be submitted to such Board except in writing by the Chief Engineer or by the Assistant Engineer who shall be discharging the duties of Chief Engineer in case of the absence or disability of the Chief Engineer.

§1050. For the purposes of this Act such proposals to purchase material, apparatus or supplies, or such bills or accounts shall be submitted to said Board at a regular meeting thereof, as fixed by its laws or at a special meeting thereof, of which special meeting each member of said Board shall have been served with written or printed notice at least forty-eight hours before the same shall be held. Such notice shall also specify such proposals to purchase, and such bills and accounts as it is proposed to submit to said Board at such special meeting, and no proposal to purchase, nor any bill or account shall be so submitted or acted upon at any special meeting unless it shall have been so specified in the notice of such meeting as above provided. A majority of the members of said Board shall be necessary to constitute a quorum for any of the purposes of this Act, and a majority of the quorum present shall be necessary to approve any such proposal to purchase, bill or account as aforesaid. And further provided that in case of emergency and urgent need said Chief Engineer may make such purchases as shall be necessary for immediate use.

§1051. Upon the approval of any such proposal to purchase material, apparatus or supplies, or of any bill or account, and its certification to the Minister of the Interior, as above provided it shall be the duty of said Minister (unless he shall believe and so certify upon such proposal, bill or account, that the same does not legitimately pertain to the functions of said Board and the purposes of said Fire Department), to provide for carrying into effect such proposal to purchase or to pay such bill or account, as the case may be, provided there are funds available in any appropriation for such purpose.

#### PART II.—FIRE DEPARTMENT OF HILO.

§1052. There shall be a Fire Department for the town of Hilo, on the Island of Hawaii, which shall consist of a Chief Engineer, not over two assistants, and as many firemen as may be approved by the Board of Representatives of the Department duly chosen as by its by-laws provided. The Fire Department of Hilo shall be under the general authority and control of the Minister of the Interior.

§1053. The Chief Engineer and Assistants shall be elected biennially on the first Monday of July. The first regular election shall take place in July, 1893, and such provisional department as may be organized prior to that time shall continue in office until such election shall have been held.

§1054. The method of holding elections, of regulating the affairs of the department, and of all business incident thereto, shall be prescribed in the by-laws to be enacted by the Fire Department, which by-laws may be from time to time amended or annulled as may be prescribed in said by-laws. In case an office shall become vacant by death, resignation or removal, the same shall be filled as shall be from time to time provided in the by-laws.

## CHIEF ENGINEER.

§1055. The Chief Engineer shall be a resident of the town of Hilo, and shall be possessed of all the qualifications required by law for electors of Representatives to the Legislature. In case of the non-election of his successor at a regular election, he shall continue to hold office until such successor shall be duly elected.

§1056. The Chief Engineer shall have the care, custody and control of the property of the Fire Department and shall be responsible to the Minister of the Interior for the same. He shall, with the consent and approval of said Minister, make expenditure of moneys appropriated by the Legislature for the Hilo Fire Department. He shall not contract any debt on behalf of the Department, nor dispose of any property belonging to the same without the consent of the said Minister. In case of fire, he shall have the sole and absolute control and command over all the members of the Fire Department, and shall have general authority and control over the region in the neighborhood of such fire within reasonable limits, to be named by him if he shall deem fit. He shall assign to the custody of such fire companies as he may deem proper the custody and control of any portion of the property of the Department. He shall, at least once in three months, examine into the condition of the property of the Fire Department, and shall, at least once each year, make report thereof to the Minister of the Interior, together with a statement of all expenditures included in such period. He shall, at such times, also report the number of fires which shall have occurred during the period, together with the localities where the same occurred; the names and owners or occupants of the premises of the property damaged or destroyed; the cause or origin of the fire, if known, the amount of insurance, together with any other facts necessary to a complete understanding of the case, and such further information as may be required by said Minister. He shall also cause the property of the Department to be kept in repair.

§1057. The Chief Engineer shall also perform the duties required by law to be done and performed by the Fire Marshal in the City of Honolulu in so far as the same may be applicable to the town of Hilo, and subject to such regulations as to dates and performance as may be regulated by the Hilo Fire Department.

§1058. The Assistant Engineer or Engineers shall perform such duties as may be directed by the Chief Engineer or assigned to them by the Fire Department at meetings of the Board of Representatives. In case of the absence or disability of the Chief Engineer, his duties shall be performed by the First Assistant.

BOARD OF REPRESENTATIVES.

§1059. There shall be at all times a Board of Representatives of the Fire Department, which shall consist of the Chief Engineer, the Assistants, the Foreman and one Assistant Foreman for each Fire Company, and a delegate from each of said companies. The delegates shall be elected annually from the members in regular standing in each company.

§1060. The Board of Representatives shall hold meetings for the transaction of the business of the Department at least once in three months. They shall enact by-laws for the control of the Department. They shall fix the number of members of each fire company, both active and honorary. They may disband companies for inefficiency or for good cause upon hearing, after due notice. They shall examine into complaints made against the Fire Department or against any member thereof, and may prescribe the terms of certificates of membership, subject to law. They shall elect from the active members of the Department a treasurer, who shall also act as secretary of the Department, who shall give proper bonds to the Chief Engineer for the performance of his duties and the expenditure of moneys

coming under his control, and generally shall have the care and supervision of matters relating to the Fire Department, other than the duties prescribed for the Chief Engineer.

#### MEMBERS OF THE FIRE DEPARTMENT.

§1061. Any person may become a member of the Fire Department of Hilo by the affirmative vote of a majority of the members of any fire company to which such person shall have applied, provided always, that such person shall not be a vagrant or disorderly person, and shall not have been convicted of any felony which shall not have been pardoned.

§1062. Members of the Fire Department who shall have been in the active performance of their duties for at least a year preceding the first of July of each year, and shall receive a certificate to that effect, shall be exempt from the payment of poll, school and road tax in each year. Only such members shall be entitled to vote at elections of the Department; and further provided, that no person under eighteen years of age shall be entitled to vote.

§1063. There shall be as many companies of firemen as shall from time to time be prescribed by the Board of Representatives. Each of said companies may choose out of their own number a foreman, assistant foreman, secretary and treasurer. The last two officers may be combined in one person. Each company shall have power to make, amend and annul such rules and regulations for their government not in conflict with law or the by-laws of the Department as may be required.

§1064. Every fireman shall attend all of the drills and parades as well as the meetings of their respective companies, unless prevented by actual illness or absence from Hilo, and shall be subject to all of the rules of the Fire Department and of their respective companies.



§1065. Each fireman shall promptly respond to an alarm of fire and attend with his company until the foreman or assistant shall order such company to disperse.

§1066. At least once in every month the several engines and apparatus shall be practiced and thoroughly cleaned and examined. If any fireman shall neglect to attend at such practice, or shall neglect or refuse to perform any duty in connection therewith, he shall be subject to such penalty as may be prescribed by the rules of the Department or of his company.

#### FIRES.

§1067. Upon the occasion of any fire, any person breaking through the limits set by the Chief Engineer (excepting owners or occupants of buildings in the immediate vicinity of such fire), or interfering with the movements or working of any fire engine or machinery, or maliciously or carelessly running over any line of hose in use at such fire, or in any manner at any time wantonly or intentionally injuring any portion of the fire apparatus, or otherwise interfering with the actions of the Department in extinguishing or controlling the same, shall be liable to a fine not exceeding two hundred and fifty dollars.

§1068. The Chief Engineer and the police are authorized to remove or cause to be removed and kept away from the vicinity of the fire, by force if necessary, any idle or suspicious person and all persons not, in their judgment, fit to be employed, or not actually and usefully employed in aiding in the extinguishing or controlling of such fire, or the preservation of property in the vicinity thereof.

§1069. The Chief Engineer and persons acting under his orders shall, for the purpose of saving property and obtaining control of a fire, have the right to enter in and upon premises in the immediate neighborhood of such fire; and any person refusing to allow such access may be forcibly removed.

§1070. The engines, carriages, and other apparatus of the Fire Department shall, in all cases of alarms of fire, have the right of way through all streets, alleys, lanes, byways and high-ways in the town of Hilo.

§1071. The occupants or owners of any building which may be on fire or in danger of fire in which any explosive material or oil shall be stored, shall immediately give notice thereof to the Chief Engineer of such fact.

§1072. In so far as the provisions of the Act relating to the Fire Department of Honolulu, being Chapter XLV of the Laws of 1888, with regard to the extinguishing of fires or the controlling thereof shall be applicable to the town of Hilo, the same shall be in force and be full authority for the performance of any act therein named for such purposes.

#### PART III.—INQUESTS OF FIRES.

§1073. The Marshal of the Republic or his Deputy or any Sheriff, District Magistrate within whose jurisdiction any fire has occurred whereby any house or other building or any cane field land or forest in such jurisdiction has been wholly or in part consumed shall inquire into the cause or origin of such fire and ascertain whether it was kindled by design or resulted from negligence or accident, provided that no such inquests shall be held in any case unless such officer shall have reasonable grounds to suspect that such fire was the result of culpable negligence or of design or occurred under such circumstances that the interests of justice and the protection of property require an investigation.

§1074. For the purposes aforesaid any one of the officers hereinbefore mentioned may issue subpoenas for witnesses returnable forthwith or at such time or place as he shall therein direct.

§1075. The said officers may summon and empanel a jury of not less than three nor more than six persons from among the householders or freeholders residing in his district, to hear the evidence which may be adduced touching or concerning such fire and to render a verdict under oath thereupon, according to the facts.

§1076. Minutes of the evidence and of all proceedings in writing shall be taken and a copy thereof certified by the officer before whom the inquiry is held and filed with the Attorney-General.

§1077. Any person who shall fail to appear after being duly summoned as a juror or witness and any such witness who may refuse to give his testimony under oath when thereto required shall be punished upon conviction before any District Magistrate by a fine of twenty dollars, and in default or payment of such fine shall be imprisoned for twenty days.

PART IV.—FIREPROOF BUILDINGS.

§1078. No person shall, within the City of Honolulu, erect, place or move any building without permission in writing from the Superintendent of Public Works.

§1079. The Minister of Interior, after the approval of the Superintendent of Public Works as herein provided, or such other competent officer as may be appointed by the Minister of Interior for that purpose, shall grant permission to erect, place or move any building within the City of Honolulu upon the application of any person, firm or corporation, and upon compliance with the following conditions:

1. That upon filing such application the applicant shall submit the plans and specifications of the building as it is intended to be when so erected, placed or moved.

2. That upon receipt of such plans and specifications the officer receiving the same shall forthwith deliver the same to

the Fire Marshal, who shall inspect and examine the same as to their construction and location, and security and stability, and their security from danger to fire, or destruction or loss from fire, or destruction or danger to life, and also are in conformity with the building and fire laws of the Republic, and also the location thereof, and he shall, if he approves of the same, grant a certificate thereof, but if he disapproves he shall sign a certificate with the grounds or reasons of disapproval, and in each case shall return the plans and specifications with his certificate to the Superintendent of Public Works or other officer appointed for such purpose, who after examination as provided in the following section, shall then endorse his approval or disapproval, with reasons or grounds, and submit the same to the Minister of Interior.

3. That if upon the examination of such plans and specifications, it shall appear to the satisfaction of the Superintendent of the Public Works, or of such architect, builder or other person as shall be designated by the Minister of the Interior to examine the same, that the materials of which such building is to be constructed, or to consist when completed, are of sufficient strength and size, and properly placed and fastened, to make the building strong and safe for the uses and purposes for which it is intended, he shall also certify his approval of such plans and specifications.

4. That for the inspection and examination by Fire Marshal the applicant shall pay a fee of five dollars for the certificate, to be paid into the Treasury through the Department of Interior as a Government realization.

§1080. If upon such examination the plans and specifications are not approved and the permission is refused, which refusal shall be in writing, stating the reasons therefor, the applicant may ask for a Board of Arbitration, and appoint one of such Board, the Minister of the Interior shall appoint another of such Board, and the two so appointed shall select the third member thereof. The plans and specifications shall be sub-

mitted to and examined by them. A decision agreed to by two members of the Board shall be final as to whether the permission sought shall be granted.

§1081. The provisions of this Act shall also apply to the erection, moving or placing of all buildings hereafter to be erected anywhere within the Republic, to be used as churches, school-houses, court-houses, hotels or other places of assembly.

§1082. The provisions of this Act shall not apply to any building to cost less than one thousand dollars which may be erected, moved or placed in the City of Honolulu outside or beyond the following limit or boundary that is outside or beyond all the space within a circle whose center is the present site of the Bell Tower of the Honolulu Fire Department and whose radius is one mile.

§1083. Any person who shall erect, move or place any building in violation of the provisions of this Act, shall be liable to a penalty of one hundred dollars. And the Minister of the Interior may, in his discretion, order the said building to be taken down or properly strengthened, and upon service of a copy of said order, the said building shall be taken down, or strengthened as directed, and the owner or builder thereof shall be liable to a penalty of twenty-five dollars for every week or part of a week during which the order is not complied with, after the expiration of one week from the date of receiving such order.

§1084. For the purposes of this Act the City of Honolulu shall comprise that portion of the Honolulu District in the Island of Oahu, within the following limits:

The Kalihi Stream on the west, the Manoa or Kalia Stream on the east, the Sea in front, and mauka a distance of three miles inland from the Sea.

§1085. The several District Magistrates throughout the Republic shall have jurisdiction to hear and determine complaints for the violation of any of the provisions of this Act, and to impose any of the penalties herein prescribed.

W

## PART V.—BUILDINGS WITHIN FIRE LIMITS.

§1086. The word “building,” when used in this Act, shall mean and comprise any dwelling house, shop, store, warehouse, church, chapel, concert-room, hospital, theater, manufactory, workshop, stable, privy or other building or erection whatsoever, and the words “hereafter to be built” shall apply to all buildings commenced after this Act shall come into operation, or which if commenced before this Act shall come into operation, shall not be covered in within one month thereafter.

§1087. Any building hereafter to be built in the City of Honolulu within the limits specified in the schedule hereto (except such sheds as may be erected by the Government on the wharf frontage for wharf accommodation), shall have the external walls and roof thereof constructed of brick, stone, concrete, iron, or other fire-proof material. Provided, that if iron be used, the frame work shall also be constructed of iron.

§1088. Any person who shall violate the provisions of this Act by constructing any building except of such materials as are mentioned in Section 1087, shall be deemed guilty of the offense of common nuisance, and may be proceeded against accordingly. And it shall be the duty of the Fire Marshal to inspect all buildings which shall hereafter be erected within the limits provided by this Act, and report to the Minister of the Interior any violations of the provisions of this Act. And it shall be the duty of the Minister of the Interior to cause prosecutions to be entered against all offenders under this Act.

## SCHEDULE BEFORE REFERRED TO.

§1089. All those parts of the City of Honolulu bounded by the water front and by a line running from the said water front and eighty feet westerly from the building line on the Ewa side of Nuuanu street to the makai side of King street, thence running along King street to a point eighty feet distant

easterly from the Waikiki side of Fort street, and thence running eighty feet from the Waikiki side of Fort street to the water front. And also all those parts of the City of Honolulu comprising the lands now reclaimed or which may hereafter be reclaimed from the land of Waikahalulu makai of Queen street.

§1090. That part of the City of Honolulu which is bounded as follows, to wit:

By the water front; thence along a line eighty feet westerly and parallel with the westerly line of Maunakea street to a point eighty feet makai of King street; thence westerly along a line eighty feet makai and parallel with said King street to River street; thence along River street to a point eighty feet mauka of King street; thence easterly along a line eighty feet mauka and parallel with said King street to a point eighty feet to the westerly or Ewa side of Konia (formerly Smith) street; thence along a line eighty feet westerly and parallel with said Konia street to a point eighty feet mauka of Hotel street; thence easterly along a line eighty feet mauka and parallel with said Hotel street to a point eighty feet to the westerly side of Nuuanu street; thence along a line eighty feet westerly and parallel with said Nuuanu street to a point eighty feet mauka of Beretania street; thence easterly along a line eighty feet mauka and parallel with said Beretania street to a point eighty feet easterly of the easterly line of Fort street; thence along a line eighty feet easterly and parallel with said Fort street to a point eighty feet mauka of Hotel street; thence easterly along a line eighty feet mauka and parallel with the said Hotel street to a point eighty feet easterly of the easterly line of Alakea street; thence along a line eighty feet easterly and parallel with said Alakea street to the water front, including all the land now or hereafter to be reclaimed within the said limit, shall be known as the Fire Limits of Honolulu.

§1091. Every building or structure except water-closets or privies, hereafter built within the fire limits of Honolulu shall have the external walls thereof constructed of brick, stone, con-

crete, iron, or other approved fire-proof material; provided, that if iron, the frame-work shall also be of iron, and that rafters and roof timbers, if covered with approved fire-proof material, may be of wood. The interior of fire-proof buildings shall be ceiled with fire-proof material or lathed and plastered; provided, however, that overhead ceiling may be made of selected tongued and grooved Northwest lumber. And further provided, that the external walls of any building adjacent to or facing the street shall not be covered with corrugated iron roofing or sheet iron or tin; all buildings and structures to be built within said fire limits shall be subject to the inspection and approval, as to location, plans, architecture, materials and construction, from design to finish, of a Commission consisting of the Minister of the Interior, the Superintendent of Public Works and the Chief Engineer of the Fire Department, and no person shall erect any building or structure within said fire limits without permission in writing from said Commission. It shall also be the duty of the Chief Engineer of the Fire Department to inspect all buildings and structures hereafter built within the fire limits of Honolulu, to see that the permits granted by the Commission are complied with according to law, and to make report to the Commission.

The provisions of this Act shall not apply to such sheds as have been or may be hereafter erected by the Hawaiian Government on the wharf frontage, for wharf accommodation.

§1092. No wooden building or structure now erected within the fire limits of Honolulu shall be altered, repaired or changed without permission in writing, signed by the Minister of the Interior, which permit shall only be granted upon an application in writing accompanied by particulars sufficient to indicate the nature and extent of alterations, repairs and changes contemplated, and no such permission shall be granted when such alteration, repair or change amounts to a renewal of one-third or more of the original structure, and such permission shall become void unless the work for which it is issued is begun within ten



days and completed within ninety days after the date of said permission.

§1093. No person owning or occupying any building fronting on any street, lane, alley or place within the fire limits of Honolulu, shall construct or cause to be constructed or maintained any awning, shade or balcony, except in accordance with the following provisions: Such awning, shade or balcony should be securely supported on wrought-iron brackets built into the walls, and shall be supported without posts, and shall be not less than eleven feet above the line of the curb levels of the sidewalk, and shall have a gutter formed to carry off the water to the line of the building, and from thence to the street gutter; provided, that no gutters will be required to be constructed on cloth or canvass awnings or shades; also, provided, that the height of all moveable canvass or cloth awnings or shades, hereafter constructed, shall not be less than seven and a half feet above the line of the curb level or the sidewalk. No awning, shade or balcony shall extend beyond the line of the curb. No awning, shade or balcony shall be inclosed to a greater height than three feet six inches; provided, that no awning, shade or balcony shall be erected on any building facing on any streets, lane, alley or place which is thirty feet or less in width; and no awning, shade or balcony shall be constructed on the sides or rear of any building within the fire limits unless there is a clear space of not less than thirty feet between such building and the adjacent buildings, and then they shall be constructed of fire-proof materials. No signs shall placed on the front, rear or sides of any building higher than its blocking course or fire wall, and no sign made of wood, canvas or cloth shall exceed three feet in height. All signs must be securely bolted to the building upon which they are placed. No frame-work shall be placed above the roof of any building.

§1094. No cornice, entablatures, belt courses, or other ornamental projections of wood, shall be placed on any fire-proof building within the fire limits of Honolulu. All exterior cor-

nices, entablatures, belt courses, and other projections of an ornamental character, shall be constructed of some fire-proof material; if of iron to be riveted together with rivets not more than 2 inches apart, and shall be supported on wrought-iron brackets, built into the wall at distances not to exceed 2 feet apart; and in every instance the greatest weight of stone, iron or other material of which they shall be composed shall be on the inside of the outer line of the wall on which they may rest, in the proportion of 4 of wall to 2 of cornice in weight; allowance must be made for the excess of leverage produced by the projection of cornice beyond the face of the wall; all cornices shall be well secured to the wall with iron anchors, independent of any wood work, and in all cases the walls shall be carried up to the planking of the roof; and when the roof is below the cornice then the wall shall be carried up to the top of the cornice or the blocking over the same, and shall be coped with some fire-proof material. All wooden cornices or gutters on fire-proof buildings that are now or may hereafter become unsafe, shall be taken down and reconstructed of some fire-proof material.

§1095. All openings in party or rear walls, must be protected by iron or iron-covered shutters, to be approved by the Superintendent of Public Works; and all party and rear walls of any building, fifteen feet or more in height, shall be built up and extend at least thirty inches above every point where the roof meets the wall, and such wall shall be not less than twelve inches in thickness. Detached buildings, having a frontage on all sides, and constructed with the exterior entirely of fire-proof materials, need have no wall above the roof-line, but the walls will extend up behind the cornice to the planking of the roof.

§1096. Any person violating any of the provisions of this Act, shall be deemed guilty of a misdemeanor, and on conviction shall be punished by a fine not more than five hundred dollars; the continuance or maintaining of such violation after conviction, shall be deemed a new offense for each day on which the same is so continued or maintained, and shall be punished accordingly.

§1097. It shall be the duty of the Fire Marshal of Honolulu, the Marshal of the Republic, his Deputy, or any Police Officer to report any infringement of the provisions of this Act to the Minister of the Interior, who shall immediately take necessary steps for the prosecution of the offender.

§1098. Whenever the provisions of the Act of the Legislature entitled "An Act to regulate the erection and repairing of the buildings in the City of Honolulu within certain fire limits," approved the 29th day of May, A. D. 1886 (Sections 1090 to 1097), are violated, the District Magistrate of the District of Kona, Island of Oahu, shall have jurisdiction to hear and determine such cases.

NOTE TO CHAPTER 63.

PART I.

§§1021-1047 are P. G. Act. 17.  
 §§1048-1051 are S. L. 1892, Ch. 62.

PART II.

§§1052-1072 are S. L. 1892, Ch. 86.

PART III.

§§1073-1077 are S. L. 1886, Ch. 10.

PART IV.

§§1078-1085 are S. L. 1886, Ch. 16, amended as follows: §§1079 and 1082 by 1890, Ch. 72.

PART V.

§§1086-1087 are S. L. 1882, Ch. 22; C. L. p. 667.  
 §§1088-1089 are S. L. 1884, Ch. 13.  
 §§1090-1097 are S. L. 1886, Ch. 2, amended as follows: §§1090-1091 by S. L. 1896, Act 31; §1095 by S. L. 1892, Ch. 42.  
 §1098 is S. L. 1886, Ch. 5.

Cases in Hawaiian Reports: McGuire v. Tong Wo, 5 Haw. 41; Rex v. Tong Wo, 5 Haw. 20; Thomas v. Norton, 8 Haw. 68.

## CHAPTER 64.

## GUNPOWDER.

§1099. The Minister of the Interior may make such regulations for the storing, keeping and transportation of gunpowder, in any town of the Republic, as he may think the public safety requires; and no person shall store, keep, or transport any gunpowder, in any other quantity or manner than is prescribed in such regulations.

§1100. Whoever shall violate any of such regulations, shall be fined for each offense, not less than twenty, nor more than one hundred dollars.

§1101. All gunpowder introduced into, or kept in any town contrary to said regulations, may be seized by any sheriff or any other officer of police, and the same shall be forfeited for the benefit of the Public Treasury.

§1102. Any person injured by the explosion of any gunpowder, in the possession of any person contrary to the regulations prescribed by the Minister of the Interior, may have an action for damages against the person having custody or possession of the same, at the time of the explosion, or against the owner of the same, if cognizant of such neglect.

§1103. All Sheriffs and other officers of police shall have authority to enter any building, or place, to search for gunpowder supposed to be concealed there contrary to law; and any District Magistrate, may grant a search warrant for that purpose.

§1104. No regulations for the safe keeping of gunpowder shall take effect until they have been published three weeks successively in some newspaper in the town, or by posting up attested copies in three places in such town.

§1105. The importation into the Hawaiian Islands of fire arms, ammunition, dynamite, giant powder and similar explosive substances, except by the Government, is hereby prohibited; provided, however, that the Executive Council may, upon application, allow the importation of such goods at their discretion, subject to the legal duties thereon.

NOTE TO CHAPTER 64.

§§1099-1104 are P. C. Ch. 64, §§1-6.

§1105 is P. G. Act 9.

## CHAPTER 65.

## PUBLIC MARKETS.

§1106. The Minister of the Interior, under the direction of the President, is hereby charged with the designation of suitable places to be used as public markets, and with the construction, repair and regulation of all such markets.

§1107. Said Minister, with the approval of the President, may appoint a clerk of the markets of Honolulu, and also clerks of the markets of other places, whenever the public good may require the same.

§1108. Every clerk of the market thus appointed shall, before entering upon the duties of his office, execute a bond in the penal sum of one thousand dollars, with sufficient surety or sureties, to be approved by the Minister of the Interior, payable to said Minister for the use of the public exchequer, and conditioned for the faithful performance of his official duties.

§1109. Every clerk of a market shall faithfully collect the market fees and fines, as they may be prescribed, from time to time, by the Minister of the Interior, with the approval of the President, keeping an account of the same in a suitable book or books, and shall quarterly render a true and faithful account of all moneys received by him in virtue of his office, and pay the same over to said Minister.

§1110. It shall be the duty of every clerk of a market to designate and declare to what uses and purposes the stalls and stands of said market shall be appropriated; and from time to time to lease the same by auction, or otherwise, as the Minister

of the Interior may direct. The rents of all markets shall be paid in advance, and shall be collected and accounted for by the respective clerks.

§1111. It shall be the duty of every clerk of a market to cause all dirt and filth which may accumulate in said market, to be removed daily, and in all other respects to keep said market in a pure, clean and healthy condition. To enable him to do this, he shall have the power to prescribe such rules and regulations for the observance of those occupying stalls and stands in the market, as may be necessary to keep the same pure and clean, and as the Minister of the Interior may approve.

§1112. It shall be the duty of every clerk of a market once in every month, and whenever requested so to do by any purchaser in said market, to inspect all the weights, measures and beams used in weighing and measuring in such market; and, at the expense of the owners, to make them conform to the standard weights and measures of the Republic; and if any person shall refuse to exhibit his weights and measures, or to make them conform to those established by law, he shall be fined twenty-five dollars.

§1113. Any person using any weights or measures in a public market, not approved by the clerk of such market, shall be fined ten dollars, and he shall besides be liable in tenfold damages to any person injured by his conduct.

§1114. Every day in the week, except Sunday, shall be a public market day; and it shall be the duty of every clerk of a market to attend such market on market days, and to enforce the laws and regulations applicable to the same.

§1115. The public markets shall be opened upon every market day, from the hour of five o'clock in the morning, until seven o'clock in the evening—and no longer, except on Saturday, when they shall be kept open until ten o'clock in the evening.

§1116. Every person who shall violate any of the rules and regulations prescribed for the government of any public market or markets, or who shall stand or occupy for the sale or vending of any poi, fish, crawfish, oysters or shell fish, or any kind of fruit or vegetables, in any street in the City of Honolulu, shall be fined one dollar for such offense, and it shall be the duty of the clerk of the market to prosecute all such offenders: Provided, however, that the fines mentioned in this Section shall not be imposed until such time as suitable markets and conveniences are set apart for the public use by the Minister of the Interior.

§1117. The salaries of all clerks of markets shall be fixed by the Minister of the Interior, with the approval of the President.

#### WEIGHTS AND MEASURES.

§1118. It shall be the duty of the Minister of the Interior to procure a standard set of weights and measures; and it shall be his duty to try by such standards, all such weights and measures as shall be presented to him to be tried; and to seal such as shall be found true with the capital letters H. I.

§1119. Said Minister shall furnish to each of the respective Governors, copies of the original standards, for the use of their respective divisions; and it shall be the duty of the said Governors to try all such weights and measures as may be presented to them to be tried; and to seal such as shall be found true, with the initial letters of their respective divisions.

§1120. The charge for trying any weights and measures shall be as follows: For sealing and marking every beam, fifty cents; for sealing and marking every measure of extension, twenty-five cents; for sealing and marking every weight, ten cents; for sealing and marking every liquid or dry measure, ten cents; and



a reasonable compensation for making such weights and measures conform to the standards.

§1121. The standards of weights and measures shall be those adopted, and now used, or that may be adopted and used by the United States of America.

§1122. Whenever any wheat, rye, Indian corn, barley or oats, shall be sold by the bushel, and no special agreement as to the measurement shall be made by the parties, the bushel shall consist of sixty pounds of wheat, of fifty-six pounds of rye, of fifty-six pounds of Indian corn, of forty-eight pounds of barley, and thirty-two pounds of oats.

§1123. If any person shall sell any goods, wares, or merchandise, fruit, vegetables, or other commodity whatsoever by any beams, weights, or measures, that have not been duly sealed, he shall be fined for each offense a sum not exceeding fifty dollars; and any person who shall be injured or defrauded by the use of any such beams, weights, or measures, may maintain an action against the offender; and if judgment be rendered for the plaintiff, he shall recover double damages, and the costs of suit.

NOTE TO CHAPTER 65.

§§1106-1123 are P. C. Ch. 65 unaltered.

## CHAPTER 66.

## PORT REGULATIONS.

§1124. All vessels that may enter any port shall be anchored in the place designated by the Harbor Master, and moved from one anchorage to another, as he may direct; and no vessel, excepting coasting vessels under fifty tons burthen, and vessels about to leave the harbor, shall quit her anchorage or moorings until the commanding officer shall have received the written permission of the Harbor Master, under penalty of a fine not exceeding one hundred dollars.

§1125. The Harbor Master, or any pilot, while removing a vessel from one anchorage or mooring to another, may make fast to any other vessel, or to any warp or wharf; and any person resisting the same, cutting away, or casting off the warp or fastening, shall be subject to a fine not exceeding one hundred dollars; and if such person belong to any vessel, the master of such vessel shall be responsible for any damages resulting from such resistance, cutting away, or casting off, as well as the fine imposed upon the offender.

§1126. In order to facilitate the removing and placing of vessels in their proper berths, all vessels in the harbor shall, when requested by the Harbor Master or any pilot, slack down their stream cables and other fastenings, and also their bower chains, under penalty of a fine not exceeding one hundred dollars.

§1127. All vessels entering port shall, if so requested by the Harbor Master or any pilot, rig in their jib, flying jib, and spanker booms, and spritsail yards, and top their lower and topsail yards,

within twenty-four hours after anchoring in such port; and in all cases before attempting to come alongside of, or make fast to either of the docks or wharves, and keep them so rigged in and topped until within twenty-four hours before leaving the harbor, and until after removing from any wharf or dock, under the penalty of a fine not exceeding one hundred dollars.

§1128. All vessels anchoring outside the reef at Honolulu, shall, when so requested by the Harbor Master or any pilot, change their anchorage, and anchor in such place as he may direct, under penalty of a fine not exceeding one hundred dollars.

§1129. No combustible materials, such as pitch, tar, resin, or oil, shall be heated on board of any vessel within the harbor of Honolulu, but all such combustible articles shall be heated either on shore, or in a boat, or on a raft, at a reasonable distance from the vessel, of which distance the Harbor Master shall be the judge. Every person violating the provisions of this Section, shall be liable to a fine not exceeding one hundred dollars.

§1130. No stones or other rubbish, shall be thrown from any vessel into the harbor of Honolulu, or Hilo, under penalty of a fine not exceeding one hundred dollars, and the master of any vessel from which stones or rubbish are thrown, shall be subject to a like fine.

§1131. Any person who shall throw, or cause to be thrown, or leave or cause to be left, for the space of six hours, upon the shores or reefs of any harbor in this Republic, any dead animal, shall be subject to a fine not exceeding one hundred dollars, and shall cause the same to be removed without delay.

§1132. Every vessel taking on board, or discharging any ballast, or coals, within the harbor of Honolulu, shall have a tarpaulin properly stretched and spread so as to prevent any from falling into the water, under penalty of a fine not exceeding one hundred dollars.

§1133. If any person commit any offense on shore, and the offender escape on board any vessel, it shall be the duty of the commanding officer of said vessel to surrender such offender to any officer of the police who may demand his surrender, either with or without a warrant, on production of his commission or appointment; and if such commanding officer shall refuse to surrender such offender, he shall be subject to a fine of not less than fifty, nor more than one thousand dollars; and upon written notice to the Collector of Customs by said officer of police, the vessel shall not receive a clearance at the Custom House, until the fine is paid, and the offender surrendered.

§1134. If the commanding officer of any vessel shall secrete, or allow to be secreted, on board such vessel, any prisoner amenable to, or convicted under the laws of this Republic, or convey him out of the jurisdiction of the Hawaiian Islands, he shall be subject to a fine of not less than fifty, nor more than one thousand dollars; and the vessel in which such prisoner shall be conveyed shall be liable to a like fine, for the payment of which she may be seized, condemned and sold.

§1135. It shall be lawful for the Marshal, any Sheriff, or other Police officer, to search any vessel for deserters, criminals, or other offenders or debtors, without a warrant, on producing to the commanding officer of the vessel, his commission or appointment as Marshal, Sheriff, or Police officer; and the commanding officer of a vessel who shall refuse any Marshal, Sheriff, or other Police officer, access to the vessel or any part thereof, shall be subject to a fine not less than ten dollars, nor more than one thousand dollars, in the discretion of the Court; and such vessel shall not be entitled to a clearance, until the fine is paid, and the search allowed: provided, however, that the provisions of this Section shall not be construed to interfere with the jurisdiction of foreign consuls, under existing treaty stipulations.

§1136. Nothing contained within the last three preceding sections, shall be so construed as to apply to ships of war, or

other vessels commanded by officers bearing the commissions of foreign states, and not subject to search by the law and usage of nations.

§1137. No foreign consul, vice-consul, or consular agent, shall deliver to the master of any foreign vessel, the register, and other papers of such vessel deposited with him, until such master shall produce to him a clearance in due form, from the Collector of the port; and any consul, vice-consul, or consular agent, offending against this provision, shall, upon conviction thereof before the Supreme Court, be fined in the discretion of the Court, not less than one hundred dollars, nor exceeding one thousand dollars.

NOTE TO CHAPTER 66.

§§1124-1137 are P. C. Ch. 66, §§1-14.

P. C. §§15-16 repealed by S. L. 1888, Ch. 57.

## CHAPTER 67.

## WHALE SHIPS.

§1138. Every master of a whaling vessel shall enter his ship at the Custom House, within forty-eight hours after his arrival at any port of entry, and previous to discharging or shipping any seamen, or taking off any supplies or stores, under a penalty of not less than ten, or more than one hundred dollars, to be imposed by the Collector of Customs.

§1139. Every master of a whaling vessel shall, within forty-eight hours after his arrival, deliver under oath, at the Custom House, a list of all wines and spirits on board as stores, and a manifest of all cargo and freight, except the produce of his fishing, and the outfits, provisions and furniture of his vessel, under the penalty of forfeiting all such stores, cargo or freight, as are not on the list of stores or the manifest, and a fine of one hundred dollars.

§1140. Every master of a whaling vessel who shall have duly entered his vessel at the Custom House, delivered all the necessary papers, and paid the legal charges due upon such entry, shall be entitled to a permit from the Collector to trade, or barter goods, excepting spirituous liquors, for refreshments and supplies, to the amount of twelve hundred dollars, original invoice value, two hundred dollars of which shall be free of duties. Said permit shall be as follows:

## WHALER'S PERMIT TO LAND MERCHANDISE.

CUSTOM HOUSE, . . . . ., H. I.

MARKS.	NUMBERS.	PACKAGES AND CONTENTS. Quantities to be specified.	VALUE AS PER INVOICE.

Permission is hereby given to . . . . ., master of the . . . . ., whaler, to land from said vessel, goods, excepting spirituous liquors, as above named, the same being entered according to their marks, numbers and actual cost, delivered on board as per original invoice.

N. B.—Oil and bone valued as follows: Sperm oil, . . . . .; whale oil, . . . . .; bone, . . . . . All articles to be landed on this permit must be entered upon it with ink, and the value carried out before leaving the vessel.

. . . . .,  
Collector.

To which shall be added the following deposition:

PORT OF . . . . ., H. I.

I, . . . . ., master of the . . . . ., do depose on oath that I have not exceeded the value of . . . . . dollars, in trade or barter with the inhabitants of this port, or its jurisdiction, since my entry on the . . . . . day of . . . . ., 18.., and I have not landed, or allowed to be landed from my said vessel, any goods other than what are included in this permit.

. . . . .  
Subscribed and sworn to before me this . . . . . day of . . . . , 18..  
. . . . .,  
Collector.

§1141. The privilege to trade or barter granted to whaling vessels in the last preceding section, may be used at one or more ports of the Republic, but shall not be construed so as to permit any such vessel to trade or barter goods to a greater amount, in all, than that prescribed in the last preceding section, during one visit to the Republic.

§1142. The permits to trade or barter, given to whaling vessels, do not include the trade, sale, landing, or disposal of spirituous liquors; and all such traffic on the part of such vessels, shall subject them to all the charges of merchant vessels, and to all other legal liabilities.

§1143. The same duties shall be exacted of whaling vessels as are exacted of merchant vessels, for any goods landed or disposed of by them, exceeding the value of two hundred dollars; and in case such excess amounts to more than one thousand dollars, they shall be deemed in law to have become merchantmen, and be subjected to all the charges of merchant vessels.

§1144. Every master of a whaling vessel who shall fail to produce his permit, when called for by any officer of customs, shall be liable to a fine of not less than ten, nor more than fifty dollars, to be imposed by the Collector.

NOTE TO CHAPTER 67.

§§1138-1144 are P. C. Ch. 67 unaltered.



## CHAPTER 68.

## THE ARRIVAL, ENTRY AND DEPARTURE OF VESSELS.

§1145. The commanding officer of every merchant vessel arriving from a foreign port, or from a domestic port with foreign merchandise on board, at any port of entry, shall, within forty-eight hours after arrival, make known to the Collector the business upon which such vessel has come to this port, furnish him with a list of passengers, and deliver him a true and perfect manifest of the cargo with which she is laden, containing an account of the packages, with their specific contents, marks and numbers, and the names of the shippers and importers or consignees, in the following form, under penalty of not exceeding one thousand dollars:

## INWARD MANIFEST.

Report and manifest of cargo laden at the port of . . . . ., on board of the . . . . ., whereof . . . . . is master, bound for. . . . .

MARKS	NUMBERS	PACKAGES (specifying contents), OR ARTICLES IN BULK.	BY WHOM SHIPPED	TO WHOM CONSIGNED.

## PORT OF . . . . ., HAWAIIAN ISLANDS.

I, . . . . ., master of the . . . . ., do solemnly swear that the above manifest of cargo laden on board of the said . . . . ., now delivered by me to the Collector of the port of . . . . ., contains, according to the best of my knowledge and belief, a full, just and true account of all goods now actually laden on board of said vessel: So help me God.

Subscribed and sworn to, this . . . . . day of . . . . ., 18..

Before me,

....., Collector.

§1146. Every master of a merchant vessel, at the time of delivering the inward manifest of his cargo, or if he has no cargo, within forty-eight hours after his arrival, shall deliver to the Collector, under oath, a list of all stores on board of his vessel, under penalty of forfeiting all stores not mentioned in such list, and a fine of one hundred dollars.

§1147. All goods imported in any vessel, and which are not included in her inward manifest, shall be liable to seizure and confiscation; and the vessel and master shall be liable to a fine not exceeding one thousand dollars.

§1148. When all the goods included in the inward manifest, are not produced or accounted for to the Collector, the vessel and master shall be liable for the appraised value of such deficiency, and the duties thereon, together with a fine not exceeding one thousand dollars.

§1149. Any Collector may permit errors in manifests or entries to be corrected, in cases where it shall appear to his satisfaction, that there has been neither wrong intention nor gross negligence: provided, the application to make such correction, be made within forty-eight hours after the date of the manifest, or entry, or previous to completing the unloading of the vessel.

§1150. The owner or consignee of goods, before obtaining a permit to discharge or land the same, shall furnish, under his oath, to the Collector, a full statement of what is designed to be landed and sold, or consumed, with the invoice price, and the costs and charges as follows:

#### INWARD ENTRY.

Entry of merchandise imported by . . . . ., in the . . . . ., of which . . . . . is master, from . . . . ., at the Custom House in . . . . ., Island of . . . . ., Hawaiian Islands, this . . . . . day of . . . . ., 18..

MARKS.	NUMBERS.	PACKAGES AND CONTENTS. Quantities to be specified.	VALUE AS PER INVOICE.

PORT OF....., HAWAIIAN ISLANDS.

I, ....., do solemnly swear that the entry now subscribed with my name, and delivered by me to the Collector of ....., contains a true account of all goods, wares and merchandise imported for sale, for me, or on my account, or on account of any person, or of any house of trade, or partnership, in which I am concerned, at this port or its dependencies (saving such goods and merchandise as are described in the other entry or entries hereunto annexed) in the ....., whereof ..... is master, from .....; that the said entry contains a just and true account of the cost thereof, including all charges, as per original invoice.

Subscribed and sworn to this ..... day of ....., 18..

Before me,

....., Collector of Customs.

§1151. When the costs and charges do not appear in the original invoice, two and one-half per cent. shall be added to the value of the invoice to cover the same, and on the total of which the duty shall be charged.

§1152. Upon such entry being made, and the duties paid to the Collector, or secured to be paid by bond, as hereinbefore prescribed, the Collector shall grant to the consignee, or owner of said cargo, or of any part thereof intended to be landed, a permit to discharge in the following form:

No.....

Custom House, ....., H. I.

PERMIT TO DISCHARGE.

MARKS.	NUMBERS.	PACKAGES.	

Permission is hereby given to land the above merchandise, from on board the . . . . ., whereof . . . . . is master, to order of . . . . .

Dated . . . . . day . . . . ., 18..

. . . . ., Collector of Customs.

§1153. The Collector shall provide an officer whose compensation shall be such as may fixed by the Minister of Finance on the recommendation of the Collector-General of Customs to be present on board the vessel during her discharge to superintend the landing of the goods, and see that no other or greater amount of goods are landed than is set forth on the permit. He may affix the seals of the Government where necessary on and in such vessels, and if any seals affixed by him or by any officer of customs shall be broken or destroyed or otherwise tampered with or removed by any person not authorized by law to break or remove the same, except when made necessary through danger of the elements, then the vessel upon or in which such breaking, destroying, tampering with or removing of such Government seals is done shall forfeit the sum of two hundred dollars as penalty, and every person convicted of breaking, destroying, tampering with or removing such seals without lawful authority so to do shall be punished by imprisonment at hard labor, not to exceed one year or a fine not to exceed one thousand dollars or by both such fine and imprisonment.

§1154. Every vessel of more than 500 tons, shall be allowed six days; and every vessel of 500 tons, and upwards, shall be allowed twelve days, after entry, in which to discharge, but for all days in excess, the compensation of the officer specified in the preceding section, shall be a charge against the vessel. Sundays and holidays shall not be counted in the number of days allowed for discharge at the expense of the Government.

§1155. Whenever any inward entry shall be made at the Custom House, the person making such entry shall exhibit to the

Collector the original invoices, and bills of lading, and verify the same by oath. If goods of which entry shall be made, be not invoiced according to their actual cost at the place of export, with design to evade the whole or any part of the duties thereon, such goods, or the value thereof, to be recovered from the person making the entry, shall be forfeited.

§1156. That there shall be attached to all invoices of goods imported into this country, from any port within the consular jurisdiction of any Hawaiian consul or commercial agent, an oath and a certificate in the following form:

CERTIFICATE TO INVOICE.

I, . . . . ., of . . . . ., do solemnly and truly swear that the invoice now produced and hereunto annexed, contains a true and faithful account of the goods, wares and merchandise therein described, at their market value at . . . . . at the time the same were procured, and of all charges thereon, and that the said invoice contains no discounts, bounties, or drawbacks, but such as have been actually allowed.

Signed . . . . .

I, . . . . ., Hawaiian Consul for . . . . ., do hereby certify that on the . . . . . day of . . . . . of the year . . . . ., personally appeared before me . . . . . who subscribed and swore to the above; and I further certify that I am satisfied that . . . . . is the person he represents himself to be, that he is a credible person, and that the statements made by him under said oath are true.

[Seal]

Signed . . . . .

Consul.

And that it shall be lawful for such consul or commercial agent to charge and receive from the person requiring such certificates, as for his own proper fee or reward, the sum of one dollar on all invoices under five hundred dollars, and two dollars on all invoices of five hundred dollars and upwards.

§1157. It shall be lawful for any Collector of Customs in this Republic, on the presentation of any invoice purporting to be shipped at any port where a Hawaiian consul is resident, when said invoice be not attached to the oath and certificate as in the preceding section set forth, to cause to be added to the invoice twenty-five per cent., and the duties shall be collected on the said increased valuation.

§1158. The Collector of Customs shall be authorized to grant a further time of six months to parties not having a consular certified invoice, upon their filing a bond with good security to produce the same within that time, the charge for which bond shall be two dollars.

§1159. The Collectors of the several ports shall be *ex-officio* inspectors, appraisers and examiners, at their respective ports, in all cases requiring the inspection, appraisalment or examination of goods, wares and merchandise, or other property, entering or coming in any way into such port, without invoice, or when in his opinion undervalued upon the entry, or in any other case when in his judgment the same may be necessary.

§1160. Every Collector shall have the power to order one or more packages, out of every invoice of goods imported into this Republic, to be designated by him, to be sent to the Custom House for inspection, or examination; and any master, owner, importer, or consignee, who shall refuse to obey any such order of any Collector, shall be liable to a fine not exceeding one thousand dollars.

§1161. No person shall enter any goods, and secure the duties on them as principal in the bond, unless he is the owner or consignee at the time the vessel enters the port, or unless he is the authorized agent of such owner or consignee.

§1162. Whenever any vessel shall arrive at any port of entry in this Republic, having on board any wines, spirits, or any gun-

powder, arms, or other munitions of war, or shall be taking on board any such goods for exportation, the Collector of such port may immediately place on board of such vessel, one or more officers, whose duty it shall be to see that the revenue laws, and regulations of the port, are duly observed; said officer or officers shall remain on board such vessel until the goods are landed, or until the departure of said vessel. Such officers shall be compensated as provided in Section 8. [§8 repealed by §1153.]

§1163. No goods, or articles of any description, shall be landed at any of the ports of this Republic, on any Sunday, or national holiday; nor on other days except between sunrise and sunset, under penalty of seizure and confiscation.

§1164. In case of the transhipment of goods not landed in the Republic, the consignee or owner shall, before being entitled to a permit to tranship the same, furnish to the Collector of Customs, a full statement of the goods intended to be transhipped, with their invoice price, as follows:

TRANSIT ENTRY.

Entry of merchandise intended to be transhipped from . . . . ., whereof . . . . . is master, on board of . . . . ., whereof . . . . . is master.

MARKS.	NUMBERS.	PACKAGES AND CONTENTS. Quantities to be specified.	VALUE AS PER INVOICE.

PORT OF . . . . ., HAWAIIAN ISLANDS.

I, . . . . ., do solemnly swear that the above entry contains a true account of all goods or articles, with the invoice, or estimate value thereof, intended to be transhipped by me, on board of . . . . ., whereof . . . . . is master, and that they are truly intended to be exported by me in the said vessel to

the port of . . . . ., and are not intended to be landed in these islands.

Subscribed and sworn to, this . . . . . day of . . . . ., 18..

Before me,

. . . . ., Collector of Customs.

§1165. The Collector, after such transit entry has been duly made, may grant a permit to tranship, in the following form:

PERMIT TO TRANSHIP.

MARKS.	NUMBERS.	PACKAGES.	

Permission is hereby given for the above merchandise to be transhipped, from on board the . . . . ., whereof . . . . . is master, to the order of . . . . .

. . . . ., Collector.

. . . . ., . . . . ., 18...

§1166. An entry for statistical purposes, shall be made of all goods or other property imported into this Republic, which by law are admissable duty free, by the consignee or importer thereof; and the Collector of Customs shall provide suitable blanks for that purpose.

§1167. That Section 562 of the Civil Code be and the same is hereby repealed: Provided, however, that nothing in this Act contained, shall be construed to exempt any person transhipping any goods, wares or merchandise without permit from the Collector of Customs, or who shall make out or pass, or attempt to pass, through any Custom House, any false, forged or fraudulent invoice, or any of his aiders and abettors, from the penalties prescribed in Section 1214.

[§562 of the Civil Code imposed a transit duty.]



§1168. All goods, wares and merchandise of every kind and description whatsoever, imported into this Republic, shall upon exportation be entitled to a drawback equal to all duties payable upon such goods: Provided that no goods or liquors shall be entitled to drawback unless the same are exported in the original packages, and shall have been stored and remained in the public stores under charge of the Collector of Customs.

§1169. If any goods entered for exportation, with intent to drawback the duties thereon, shall be landed without re-entry and payment of all charges, at any port or place within this Republic, such goods shall be subject to seizure and forfeiture, together with the vessel from which they shall be landed; and any person concerned therein shall, on conviction thereof, be imprisoned at hard labor not exceeding six months, or fined not exceeding one thousand dollars.

#### PASSENGERS BAGGAGE.

§1170. If the master of any vessel, arriving at any port of entry of this Republic, from a foreign port, shall suffer the baggage of any passenger on board of his vessel to be removed on shore from such vessel, unless a permit therefor has been obtained from the Collector of the Port, or his agent, such master shall be liable to a fine not exceeding fifty dollars, in the discretion of the Collector of Customs.

§1171. If any passenger arriving at a port of entry of this Republic, on board of a vessel coming from a foreign port, shall remove his baggage on shore from such vessel, without first obtaining a permit therefor from the Collector of the Port, or his agent, such passenger shall be liable to a fine not exceeding fifty dollars, in the discretion of the Court.

§1172. Any vessel, the owner, consignee or commander of which shall have fully complied with the laws and regulations

affecting foreign trade, and with all the laws regulating the shipment and discharge of Hawaiian seamen, shall be entitled to depart upon receiving from the Collector of the Port a clearance in the following form:

HAWAIIAN ISLANDS.

CERTIFICATE OF CLEARANCE.

Port of . . . . ., Hawaiian Islands,  
 . . . . . day of . . . . ., 18 . . .

This is to certify that the . . . . ., of which . . . . . is master, bound for . . . . ., is at liberty to proceed on her voyage.  
 . . . . ., Collector.

And a Health Certificate in the following form:

HAWAIIAN ISLANDS.

HEALTH CERTIFICATE.

Port of . . . . ., . . . . . day of . . . . . 18 . . .

This is to certify that the . . . . . of which . . . . . is master, is now ready to depart from this port for . . . . . with . . . . . persons, including the master of the vessel.

And I do further certify that no cholera, plague or other contagious or dangerous disease, at present exists at this port or vicinity.  
 . . . . ., Collector.

It shall also be incumbent on said Collector to furnish the commanding officer, a bill of the charges, more particularly hereinafter prescribed.

§1173. In case any vessel does not sail within forty-eight hours after receiving a clearance, it shall be the duty of the master to report the same to the Collector of the Port, under a penalty of not exceeding twenty-five dollars to be imposed by said Collector.

§1174. No vessel shall be entitled to a clearance, unless all proper charges at the Harbor Master's office shall have been settled; and the Collector may require the master or agent of the vessel to produce the Harbor Master's receipt or certificate, to prove that he has settled all such charges.

§1175. Any person wishing to export any foreign goods, shall enter the same at the Custom House of the port where they may be stored, in the following form:

OUTWARD ENTRY.

Entry of merchandise intended to be exported by....., on board the....., whereof,.....is master, for....., which were imported on the....., by....., in the....., ....., master, from....., for the benefit of drawback.

MARKS.	NUMBERS.	PACKAGES AND CONTENTS. Quantities to be specified.	VALUE AS PER INVOICE.

Port....., H. I.

I, ....., do solemnly swear that the articles specified in the above entry were imported in the....., of which..... was master, from.....; that they were duly entered at this port; that they have been stored under the direction of the Collector of Customs, since the.....day of....., 18..; and that they are not intended to be re-landed in this Republic.

Subscribed and sworn to this.....day of....., 18..

Before me,

....., Collector of Customs.

§1176. Due entry having been made of the goods intended for exportation, the Collector shall grant a permit for lading the same, on board the vessel named in such entry, such lading to be made under the superintendence of the Collector, or such other person as he may appoint for that purpose.

§1177. To entitle any vessel to a clearance, it shall be incumbent on her commanding officer, first to furnish the Collector of the Port with a manifest of the cargo laden on board of such vessel, which manifest shall be given under oath, containing a full statement of all the goods on board, expressing contents, quantities and value, and distinguishing between domestic, foreign and transhipped goods, and shall also contain a list of her stores taken from bond, and passengers.

§1178. No vessel having cargo on board intended for a foreign country, shall touch at any place in this Republic, other than a port of entry, except as provided in Section 961; and any vessel violating the provisions of this section, shall be subject to a penalty not exceeding five hundred dollars, in the discretion of the Court.

§1179. If any vessel shall sail from any port in this Republic without first obtaining a clearance, the commanding officer thereof shall be subject to a fine not exceeding one thousand dollars, in the discretion of the Court; for the payment of which fine, the vessel shall be liable to seizure, condemnation and sale.

#### HARBOR MASTERS.

§1180. The Minister of Finance, upon the nomination of the Collector General of Customs, shall appoint a Harbor Master for such of the ports of entry for merchant vessels, as the said Minister and Collector General may deem necessary, who shall hold office during the pleasure of the said Minister, and who, before entering upon the duties of his office, shall give a bond to the Collector General of Customs, in the penal sum of at least one thousand dollars, with sureties to be approved by the said Collector General, conditioned that he will faithfully and honestly discharge the duties of Harbor Master, and account for and pay over to the Collector General, all moneys received by him, as required by law.

§1181. It shall be the duty of the Harbor Master of Honolulu, and Hilo, to board all vessels arriving from foreign ports, as soon as possible after they shall have entered the harbor; to direct them where and how to moor or make fast; to change their anchorage or moorings from time to time as circumstances may require; to see that the commanding officer has the printed port regulations, and to receive a list of passengers, to be delivered at the Collector's office. He shall also be wharfinger at the port for which he is appointed.

§1182. The Harbor Master of Honolulu, and of Hilo, shall also have authority over the anchoring, mooring and making fast, of all hulks, coasters, boats, and other craft in the harbor; and he is charged in general with the enforcement of all harbor regulations.

§1183. The Harbor Master of Honolulu shall not act as a pilot of the port.

§1184. The Harbor Master at the respective ports, is charged with the granting of permits for the discharge and residence on shore of foreign seamen, as prescribed by law; and it shall be his duty to notify the Chief of Police of the port, on the expiration of every such permit.

§1185. The Harbor Master of Honolulu, and also of Hilo, shall be entitled to collect and receive from every vessel, except vessels engaged in the coasting trade, boarded by him, or to which he renders assistance or service, the sum of three dollars, in addition to his disbursements for the use of boats and warps, and for labor in mooring or making fast such vessels; and if necessarily detained on board more than two hours at any one time, he shall be paid at the rate of one dollar per hour for such extra detention; and for each time that he may be called upon to board, or that it may be necessary for him to board any

Y

such vessel, after having once moored her properly, he shall be entitled to receive the same pay as in the first instance.

§1186. The compensation of the Harbor Masters of other ports shall be such reasonable sum as may be determined by the Minister of Finance and the Collector General of Customs: Provided, that it shall be at their option to refuse any compensation, in cases where they shall deem it unnecessary.

§1187. The Harbor Masters shall receive for their services as wharfingers, such a reasonable percentage of the receipts from wharfage as may be determined by the Minister of the Interior, not to exceed ten per cent.

§1188. It shall be the duty of the several Harbor Masters to make a quarterly report of the transactions of their offices, together with the amount of compensation received by them to the Minister of Finance.

#### PILOTS AND BOARDING OFFICERS.

§1189. The Minister of Finance, upon the nomination of the Collector General of Customs, shall appoint and commission three pilots for the Port of Honolulu. Such pilots may be removed or suspended by the Collector General with the approval of the Minister of Finance for misconduct, carelessness, or neglect of duty, or other satisfactory cause. The Collector General may, with the approval of said Minister appoint deputies or substitutes of any such pilots in case of sickness or temporary absence.

§1190. Each pilot before appointment shall be examined as to his fitness to act as pilot, and the Collector General of Customs with the approval of the Minister of Finance shall make rules and regulations for such examination.

§1191. The Minister of Finance, upon the nomination of the Collector General of Customs, shall appoint one or more pilots, for each of the ports of Hilo and Hanalei, to hold office during the pleasure of said Minister. Said pilots, in case of sickness, or temporary absence, may, with the approval of the Collector of the Port, appoint deputies to act in their behalf, for whose conduct they shall be responsible.

§1192. Each of the pilots for Honolulu shall give a bond to the Collector General of Customs, with sureties to be approved by said Collector General, in the penal sum of five thousand dollars; and the pilots for other ports shall give a like bond, in the penal sum of one thousand dollars; which bond shall be conditioned that the pilot shall faithfully perform all the duties imposed on him by law; that he will not countenance any evasion or infraction of the revenue laws; and that he will continually hold himself in readiness to conduct vessels safely into, and out of, the port for which he is appointed.

§1193. In case of a breach of the conditions of any such bond, the Collector General of Customs, or any person injured thereby, may institute a suit upon such bond before any Judge of a Court of Record, and thereupon recover such damages as shall be assessed, with costs of suit; for which execution may issue in favor of such person; and in case the party prosecuting shall fail to recover in the suit, judgment may be rendered, and execution may issue for costs in favor of the defendant against the party who shall have instituted the suit. Every suit on any such bond shall be commenced within one year after the right of action shall have accrued, and not afterwards.

§1194. Upon the arrival of any vessel, making the usual marine signal for a pilot, it shall be the duty of the pilot or pilots at the port, to immediately put off to such vessel, taking with him a white and a yellow flag, to enquire into the sanitary condition of the ship, and the health of those on board; and upon being

assured to his satisfaction that there is no danger to be apprehended from any contagious disease, he shall board such vessel, but not otherwise.

§1195. Upon boarding the vessel, the pilot shall present the commanding officer with a health certificate to be signed by him, and in case the same shall be signed, the white flag shall be immediately hoisted at the main, and the pilot shall be at liberty to bring the vessel into port; but in case the commanding officer shall decline to sign the certificate of health, the pilot shall deliver him a yellow flag, which the master shall hoist at the main, and the vessel shall be placed in quarantine outside of the harbor, and anchored where the pilot may direct. Any pilot who shall conduct a vessel into any port in this Republic in violation of the provisions of this section, or any of the regulations of the Board of Health, or knowing that there is just ground to suspect the existence of contagion on board, shall be liable to a fine not exceeding five hundred dollars; and every vessel, the master of which shall have declined to sign a certificate of health, as above prescribed, shall, upon entering port, be liable to seizure, confiscation and sale.

§1196. If the pilot, after boarding any vessel, shall discover the existence of a contagious disease, he shall not return on shore; neither shall it be lawful for any of the ship's company or passengers to land, or communicate with the shore, or board any other vessel, without permission of the Board of Health, or the Collector, under a penalty of a fine not exceeding five hundred dollars.

§1197. The pilots of Honolulu shall bring the vessel which they may take charge of fully within the harbor, (within the inner buoy unless otherwise directed by the Harbor Master) and anchor her in a suitable and convenient place, under penalty of forfeiting their commissions.



§1198. No pilot shall take out any vessel that may be under attachment or arrest, by virtue of any process, nor before she has obtained her clearance, under penalty of forfeiting his commission, and paying a fine not exceeding one thousand dollars.

§1199. The compensation of the pilots shall be as follows: One dollar per foot upon the vessel's draft, coming into port, and the same going out of port.

§1200. The compensation of pilots for the Port of Honolulu shall be such as shall be fixed and appropriated by the Legislature.

§1201. The fees and charges for pilotage of the Port of Honolulu shall be as follows: For coming into port and also going out—For all mail steamers of one thousand tons register or upwards, fifty dollars. For transient steamers of one thousand tons and upwards, seventy-five dollars. For all vessels of war, two dollars per foot on draught of water. For all sailing vessels under two hundred tons register, one dollar and a half per foot. All other vessels and steamers, five cents per ton. For anchoring vessels outside, twenty dollars; if brought into harbor this charge shall be reduced to ten dollars. For any detention on board a vessel for more than twenty-four hours the compensation shall be seven dollars per day. All receipts for fees and charges for pilotage at the Port of Honolulu shall be paid to the Collector General of Customs for the use of the Hawaiian Government.

§1202. The compensation of the pilots at the ports of Kahului, Maui, and Hilo, Hawaii, shall be as follows: One dollar and fifty cents per foot on the vessel's draft coming into port, and the same for going out of port. For anchoring any vessel off the said ports of Kahului and Hilo, ten dollars; provided that the pilot be not detained on board longer than twenty-four hours,

and for all detention on board beyond that time five dollars per day.

§1203. If any foreign vessel, or Hawaiian vessel, engaged in foreign trade, shall enter or depart from any of the ports for which pilots may be appointed, without a pilot, such vessel shall be liable to one-half pilotage.

§1204. The pilot's fees and the health fees shall form a part of the port charges, which shall be paid by every vessel to the Collector of the Port, and no Collector shall grant a clearance to said vessel until such fees are paid.

#### BOARDING OFFICERS.

§1205. There shall be appointed in like manner as the pilots, at each of the ports of Lahaina, Kealakeakua, Kawaihae and Koloa, an officer to be called a boarding officer, whose duty it shall be to board every foreign vessel, and every Hawaiian vessel coming from a foreign port, as soon as possible after its arrival; obtain the health certificate; deliver the printed port regulations to the commanding officer; receive the list of passengers to be delivered at the Collector's office; and at all times hold himself in readiness to act as pilot when required. It shall also be his duty to report to the proper authorities, all violations, or suspected violations, of the revenue or harbor laws.

§1206. Previous to entering upon his duties, every boarding officer shall give to the Collector General a bond in the penalty of five hundred dollars, with satisfactory surety, conditioned that he will faithfully and honestly perform all the duties imposed upon him by law; that he will not countenance any evasion or infraction of the revenue laws; and that he will give notice to the proper authorities of all violations, or suspected violations, of the revenue or harbor laws, that may come to his knowledge.

§1207. Every boarding officer shall be entitled to receive from each vessel boarded by him, the sum of five dollars (which shall include pilotage when required), which shall be paid to the Collector of the Port, before the vessel shall be entitled to receive a clearance.

#### LIGHT DUES.

§1208. There shall be levied upon all vessels arriving from abroad, at any port of this Republic where a light house may be established, the sum of three dollars, which shall be paid before departure to the Collector of Customs.

§1209. All vessels engaged in the coasting trade shall pay ten cents per ton as light money, in consideration of which they shall be entitled to visit all ports where light houses may be established, for the term of one year, without further charge.

#### NOTE TO CHAPTER 68.

- §§1145-1150 are P. C. Ch. 68, §§1-6.
  - §1151 is S. L. 1874, Ch. 35; C. L. p. 157.
  - §1152 is P. C. Ch. 68, §7.
  - §1153 is S. L. 1884, Ch. 15.
  - §1154 is S. L. 1870, Ch. 12; C. L. p. 157.
  - §1155 is P. C. Ch. 68, §9.
  - §§1156-1157 are S. L. 1864; C. L. p. 519.
  - §1158 is S. L. 1874 Ch. 20; C. L. p. 519.
  - §§1159-1171 are P. C. Ch. 68, §§10-22.
  - §1172 is P. C. Ch. 68, §23, amended by S. L. 1874, Ch. 16; C. L. p. 164.
  - §§1173-1188 are P. C. Ch. 68, §§24-39.
  - §§1189-1190 are S. L. 1892, Ch. 49.
  - §§1191-1196 are P. C. Ch. 68, §40-45.
  - §1197 is C. L., §597.
  - §1198 is P. C. Ch. 68, §46.
  - §1199 is part of P. C. Ch. 68, §47, the remainder being superseded by S. L. 1892, Ch. 49.
  - §§1200-1201 are S. L. 1892, Ch. 49.
  - §1202 is S. L. 1880, Ch. 4; C. L. p. 171.
  - §§1203-1207 are P. C. Ch. 68, §§48-52.
  - §§1208-1209 are S. L. 1868; C. L. 172.
- Cases in Hawaiian Reports: R. v. Aho, 5 Haw. 565; Cleghorn v. Samshoo, 7 Haw. 189; Republic v. Hoffschlaeger, 10 Haw. 481.

## CHAPTER 69.

## AID FOR SEAMEN'S HOSPITAL.

§1210. Every vessel arriving from a foreign port at any of the ports of this Republic with passengers on board, shall be subject to a tax of one dollar for each of the passengers who shall enter the Republic, and this tax shall form a part of the port charges and shall be paid to the Collector of the Port, and no Collector shall grant a clearance to any such vessel until the same be paid.

§1211. Such Collectors shall make quarterly returns, in the manner and form prescribed by law, of the amounts received by them, in pursuance of the foregoing section, to the Minister of Finance, who is required to hold the same subject to the disposition of the Minister of the Interior, according to the requirements of the Civil Code in regard to the hospital tax on Hawaiian seamen.

§1212. For the purpose of this Act "Hawaiian Seamen" shall be construed to mean any and all persons engaged under shipping articles, upon any vessel of Hawaiian Register.

## NOTE TO CHAPTER 69.

§§1210 and 1212 are S. L. 1890, Ch. 5.

§1211 is P. C. Ch. 69, §2.

Cases in Hawaiian Reports: Hospital v. Collector, 9 Haw. 579.

## CHAPTER 70.

## SMUGGLING.

§1213. No vessel shall engage in the coasting or carrying trade having on board any spirits, wines, stores, or articles of merchandise which have not paid the legal duties in this Republic, under penalty of not less than fifty, nor more than one thousand dollars, in the discretion of the Court.

§1214. Every person who shall be in any way engaged in the importation, introduction, landing, or transshipping of any goods, wares or merchandise, subject to duty, without paying or securing the payment of such duty, or who shall make out or pass, or attempt to pass, through any Custom House, any false, forged or fraudulent invoice, and also his aiders and abettors, shall be deemed guilty of the misdemeanor of smuggling, and on conviction thereof, shall be fined not less than fifty, nor more than one thousand dollars, or imprisoned at hard labor not exceeding two years, in the discretion of the Court; and all goods, wares, and merchandise, so smuggled, or attempted to be smuggled, and the vessel from which they are smuggled, or attempted to be smuggled, together with all her boats, tackle, apparel and furniture, and all other boats, vessels, and craft of whatever description, in any way used or engaged in such smuggling, or attempt to smuggle, shall be forfeited, and may be seized, condemned and sold for the benefit of the Hawaiian Government.

§1215. Any person who shall be charged with, or suspected of, the offense of smuggling, or attempting to smuggle, may be arrested by any officer of the Police or Customs, without a war-

rant, and detained until he can be brought before some Police or other Justice, for examination.

§1216. In all cases where any person shall be charged with smuggling, or attempting to smuggle, any goods, wares or merchandise, it shall be incumbent on such person to prove the legal importation, and the payment of the duties required by law.

§1217. All baggage, or other property, exempt from duty, landed without due entry and permit, first made and obtained, shall be forfeited, and be liable to seizure and sale.

§1218. Whenever any article, subject to duty, shall be found in the baggage of any person, which shall not, at the time of making entry for such baggage, have been mentioned to the Collector, it shall be forfeited; and the person in whose baggage it shall be found shall forfeit and pay five times the value of such article.

§1219. All vessels, boats, goods, wares, merchandise, or other property, liable to forfeiture shall, and may, be seized in any place, either upon land or water, by any Collector or other officer of customs, by any person employed for the prevention of smuggling, or by any Sheriff, Constable, or Police officer; and all property so seized by any other person than a Collector, shall, as soon as convenient, be delivered into the care of the Collector nearest the place of seizure.

§1220. It shall be lawful for any Collector or other officer of customs, to go on board of, and examine any vessel, on her entry into and departure from this Republic, and at any other time that such Collector or other officer may deem it necessary.

§1221. It shall be lawful for any Collector, or other officer of customs employed for the prevention of smuggling, or for any Sheriff, Constable, or Police officer, to go on board any

vessel, when he shall have reason to suspect any goods subject to duty are concealed on board of such vessel, and upon producing his commission, or appointment to office, to search for, seize and secure any such goods.

§1222. If any Collector, or other officer of customs, or Sheriff, Constable, or other Police officer, shall suspect the concealment of any smuggled goods in any house, shop, cellar, warehouse, room, hulk, or other place, he shall, upon application to any Judge or Justice, setting forth under oath, facts sufficient in the opinion of such Judge or Justice, to justify such suspicion, be entitled to a warrant to enter such house, shop, cellar, warehouse, room, hulk, or other place, and there to search for and secure any such goods; and in case of resistance, to break open doors, chests, trunks, and other packages, and there to seize, and from thence to bring away any smuggled goods, and to place and secure the same in the custody of the Collector nearest the place of seizure.

§1223. When any Collector, or other officer of customs, shall deem it necessary, he may call upon any Sheriff, Constable, or other Police officer to render him assistance in making or enforcing any search or seizure; and any such officer refusing such assistance, shall be liable to a fine not exceeding five hundred dollars, in the discretion of the Court.

§1224. If any Collector, officer of the customs, or other officer, or any person acting in their aid, shall be hindered, opposed, molested or obstructed, in the due execution of his office or duty, in making any search or seizure, or otherwise, by any person whatsoever, every person so hindering, opposing, molesting or obstructing any such officer, or other person, and also any person aiding or abetting in the commission of such offense, shall be liable to a fine of not less than fifty nor more than one thousand dollars, in the discretion of the Court.

§1225. The Collector General, or any other Collector of Customs, is authorized to cause a suit or prosecution to be issued in his own name, on behalf of the Hawaiian Government, for any violation of the provisions of any law relating to the revenue of customs.

§1226. All vessels, goods, or other property seized, shall remain in the custody of some Collector or other officer of the customs, until it shall have been ascertained whether the same are liable to forfeiture or not: provided, however, that if the claimant of any such vessel, goods, or other property, shall pray to have the property delivered to him, the Court may appoint three appraisers, to appraise under oath the value of the same, at the expense of the claimant; and if at the return of the appraisement, the claimant shall give a bond with two good and sufficient sureties, to be approved by the Court, for payment to the Collector, of a sum equal to the value appraised, and produce a certificate of the duties having been paid or secured, such property shall be delivered to the claimant.

§1227. If, upon the trial, judgment shall be given for the claimant, the bond shall be cancelled; but if against him, he must, within twenty days thereafter, pay into Court the amount of the appraised value with the costs, or judgment shall be forthwith rendered upon the bond, on motion in open Court, or before some Judge at Chambers.

§1228. All property in the custody of any Collector, or other officer of the customs, shall, after condemnation, be sold at public auction, upon giving such notice of the time and place of sale, as the Court may direct.

§1229. When any property shall be seized under any law relating to the revenue of customs, notice of such seizure shall be published in the Government Gazette, and unless the person from whom it is taken, or the owner, or some person authorized



by him, shall, within twenty days from the day of such notice of seizure, give notice to the person seizing the same, or to the Collector, that he claims such property, it shall be held to be condemned, and shall be sold as such at public auction.

§1230. The proceeds of all property condemned and sold for violation of any revenue law, after deducting legal commissions for selling the same, and all other necessary expenses; and also all fines and penalties imposed for the violation of any revenue law, after deducting the costs of Court, shall be paid to the Collector-General of Customs.

§1231. The proceeds of all forfeitures, fines and penalties, under the revenue laws, after deducting the legal costs and charges, as provided in the last preceding section, shall be divided as follows:

One-half shall be paid and accounted for by the Collector-General to the Minister of Finance, for the benefit of the Public Treasury; one-fourth to the person who gave the definite information which led directly to the seizure, or induced the prosecution; and one-fourth to the person who made the seizure or entered the prosecution; if no other person has a claim as informer than the one making the seizure, or entering the prosecution, he shall be entitled to one-half.

§1232. Any person entitled to a share of any such forfeiture, fine or penalty, may be used as a witness on the trial.

§1233. Every person having a claim for a share of any such forfeiture, fine or penalty, shall state the same in writing under oath, to the Collector-General, within twenty days from the date of the seizure, or from the time the penalty is imposed, otherwise he shall forfeit his claim.

§1234. The Collector-General shall pay over their shares to the several claimants, according to their legal rights, of which

he shall be the judge, subject to an appeal to the Minister of Finance, within ten days after the rendition of the Collector's decision.

§1235. No officer shall be entitled to a share of any forfeiture, fine or penalty, for any violation of the revenue laws, by virtue of his office, nor be debarred from receiving a share, on account of his office or salary: provided, however, that if the Collector-General shall be a claimant in any case, his claim shall be filed with, and be heard and determined by the Minister of Finance, subject to no appeal.

§1236. All spirituous liquors seized and condemned for any violation of the revenue laws, shall be sold in bond, and be subject to exportation, or to withdrawal for consumption, upon payment of the legal duties, the same as if they had been legally imported; and the person or persons entitled to a share of the proceeds of the liquors condemned and sold, shall receive a share of the duties actually paid on such liquors, in the proportion of their shares in the proceeds. All other property, so seized and condemned, shall be sold without any reference to duties.

§1237. When in any suit for the forfeiture of any vessel, goods or other property, judgment shall be given for the claimant, if it shall appear to the Court or Judge trying the case, that there was probable cause of seizure, such Court or Judge shall cause a certificate to be made thereof, and in such case the claimant shall not be entitled to costs, nor shall the person who made the seizure, or the prosecutor, be liable to a suit on account of such seizure or prosecution; but the vessel or other property must be, after judgment, forthwith returned to such claimant or his agent.

§1238. All suits to procure a decree of forfeiture, condemnation and sale, against any vessel, boat, goods, or other property, may be brought in the Supreme Court, in any Circuit Court, or

before any Judge of the Supreme or Circuit Court at Chambers, and they shall have exclusive jurisdiction to try and determine such cases: provided, always, that the several District Magistrates shall have concurrent jurisdiction to try and determine any such suit, where the value of the property does not exceed five hundred dollars.

§1239. Forfeitures for the violation of any provision of the revenue laws, shall attach and divest the property the moment the offense has been committed, and no sale or other change of property shall purge the forfeiture.

§1240. All suits brought against any person, vessel, goods, or other property, for the violation of any provision of the revenue laws, and all suits brought against any officer of the customs, or other person, for anything done in pursuance of the revenue laws, shall be commenced within six months after such violation is discovered, or such thing done.

§1241. Upon sworn complaint to any Justice, charging any person with the violation of any provision of the revenue laws, and setting forth sufficient facts to warrant said Justice in the belief that such violation has been made, he shall issue a warrant for the arrest of such person, commanding that he be brought before him for examination. If, after the examination of the accused, the Justice shall be of the opinion that there is probable cause to believe, upon the evidence produced to him, that a conviction would take place before a jury, he shall commit the accused to prison, to await his trial at the next term of the Supreme or Circuit Court: provided, however, that the accused may be released from prison, upon giving a bond with two good and sufficient sureties, to be approved by said Justice, conditioned for the payment of any fine that may be imposed upon him, if found guilty, or that he will appear at the time of trial, and answer to the charge; and further provided, that nothing in this section contained shall be construed as interfering with the

jurisdiction of the District Magistrates in cases of smuggling and other offenses, as provided in the next succeeding section.

§1242. The respective District Magistrates throughout the Republic, shall have jurisdiction to try and determine all cases in which any person shall be charged with smuggling, or attempting to smuggle, and all other offenses against any provision of the revenue laws, when the amount of the fine does not exceed five hundred dollars.

§1243. In case any person charged with, and convicted of, an offense against the revenue laws, shall desire an appeal, it shall be incumbent upon him to first pay the amount of the accrued costs and fine, or to give a bond for the payment of the same, signed by at least two good and sufficient sureties, to be approved by the Court by whom he was tried.

§1244. Every person who shall be fined for a violation of any provision of the revenue laws shall, in case he fail to pay such fine, be imprisoned at hard labor until such fine be paid or remitted, or until he shall have earned a sum equivalent to such fine.

§1245. If any officer shall make any collusive seizure, or shall deliver up, or shall make any agreement to deliver up, or not seize, any vessel, boat, or other property liable to seizure, or shall directly or indirectly take or receive any bribe, gratuity, recompense or reward, for the neglect or non-performance of his duty, he shall, for each such offense, be liable to a fine of not exceeding two thousand dollars, and be rendered incapable of serving the Republic in any office or employment; and if any person shall give any bribe, recompense or reward to, or make any such collusive agreement with, any such officer, whether the offer, proposal, promise or agreement, be accepted or performed, or not, he shall be liable to a fine of not exceeding two thousand dollars.

§1246. Whenever the words "goods," "wares," and "merchandise," or either of them, are used in this Chapter, the same shall be construed to include all property of whatever kind or description.

§1247. The Minister of Finance shall have power, from time to time, to make, alter and amend, such rules and regulations for the collection of duties and the transaction of the business of the Custom Houses, not in conflict with any law, as he may deem proper, giving due notice of the same in the Government Gazette.

§1248. Any person who has incurred any fine, penalty or forfeiture, for a breach of any provision of the revenue laws, or is interested in any vessel, or merchandise, subject to seizure, forfeiture or disability, may petition the Minister of Finance, setting forth the circumstances of his case, and praying that the same may be mitigated or remitted, and the said Minister may mitigate or remit such fine, forfeiture, or penalty, or remove such disability, or any part thereof, and he may direct any prosecution for such fine, penalty or forfeiture, to be discontinued upon such terms as he may deem reasonable.

§1249. Any person importing or attempting to import or smuggle any of the spirituous liquors or wines mentioned in Section 938 of the Civil Laws, without payment of the duties; or adulterating the same in order to lower or change the standard, shall be guilty of a misdemeanor, and on conviction, shall pay a fine of not less than one hundred nor more than one thousand dollars, and such spirituous liquors shall be seized and confiscated to the use of the Hawaiian Government.

§1250. The Minister of Finance, with the advice and consent of the President, may appoint any port in the Hawaiian Islands and proper places within the same, to be legal quays, wharves or landing places for the lading and unlading of goods, and declare

Z

the bounds and extent of such quays and wharves, and annul any such appointments now made or hereafter to be made and declare the same to be no longer a legal port, quay, wharf or landing place, or may alter the names, bounds and limits thereof.

§1251. No vessel arriving from foreign or domestic ports having goods or stores on board shall without permission of the Collector-General of Customs, or one of his deputies, go to any place in this Republic not being at the time of the passage of this Act a legal port of entry or a port appointed in accordance with the provisions of this Act, except when driven thereto by stress of weather, want of provisions or other unavoidable circumstance, any master or other person in command of any vessel who shall violate the provisions of this Act, shall be punishable by a fine not exceeding five hundred dollars.

§1252. If any goods or articles prohibited from being imported by any private persons shall be found in any ship within the limits of any port of this Republic, such goods and articles and the packages containing the same and all merchandise or part of the invoice in which such goods and articles were imported, shall be forfeited, and all ships or boats coming into any port in this Republic having opium on board concealed in false bulk-heads, false bows, double-sides or bottom, or in any secret or disguised place whatsoever constructed in such ships or boats, shall be forfeited.

§1253. Any officer of Customs or other person employed for the prevention of smuggling, may go on board any ship or boat, foreign or domestic, within the limits of any port in this Republic, and search such ship or boat for opium or other prohibited or dutiable goods and articles.

§1254. Any officer of Customs or other officer may search any person whom he may have reason to suspect of smuggling, and also any goods or baggage on board of any ship or boat or on

any wharf or in any warehouse, or on any cart, wagon, railroad car or other conveyance, provided, however, that such search is made within twenty-four hours after the landing of such passengers, baggage or goods.

§1255. Before any such person or baggage or goods shall be searched, such person or the owner or consignee of such baggage or goods may require to be taken with all reasonable dispatch to the Collector of Customs or his deputy, who may if he sees no reasonable cause for search, discharge such person and release such baggage and goods; and no officer having probable cause and making such search shall on account thereof be liable to any prosecution or action of law.

§1256. Any person who shall destroy or attempt to destroy any goods or other article to prevent a seizure thereof or shall obstruct any officer mentioned in Sections 1253 and 1254, in the execution of his duty, shall be punishable by a fine not exceeding five hundred dollars.

§1257. Any person who shall be in any way knowingly concerned in carrying, removing, depositing or concealing or in any manner dealing with any opium or other article the importation whereof is prohibited, or any dutiable goods upon which no duties have been paid, shall be punished by a fine not exceeding five hundred dollars.

§1258. The proceeds of all forfeitures, fines and penalties for violation of the provisions of this Act, shall be paid to the Collector-General of Customs, who shall dispose of the same as provided in Section 1231.

#### NOTE TO CHAPTER 70.

§1213 is C. L., §55.

§§1214-1231 are P. C. Ch. 70, §§1-18.

§1232 is P. C. Ch. 70, §19, amended S. L. 1876, Ch. 13; C. L. p. 192.

§§1233-1248 are P. C. Ch. 70, §§20-35.

§1249 is S. L. 1896, Act 79, §2.

§§1250-1258 are S. L. 1886, Ch. 7.

Cases in Hawaiian Reports: *Rex v. Webster*, 1 Haw. 69; *Rex v. Coady*, 1 Haw. 71; *King v. Eser*, 3 Haw. 607; *In re the Mary Belle Roberts*, 3 Haw. 823; *King v. Bradley*, 4 Haw. 187; *In re Bark Kalakaua*, 4 Haw. 325; *R. v. Aho*, 5 Haw. 565; *Re Apuna*, 6 Haw. 738; *Cleghorn v. Samshoo*, 7 Haw. 189; *Cleghorn v. Macfarlane*, 7 Haw. 315; *Re Man Nun*, 7 Haw. 464; *The Consuelo*, 7 Haw. 712; *Re Military Act*, 7 Haw. 769; *Cleghorn v. Opium*, 8 Haw. 462; *Collector v. Shoyu*, 9 Haw. 586; *The Henrietta*, 10 Haw. 241; *Castle v. Cases of Crackers*, 10 Haw. 648.



## CHAPTER 71.

## THE SHIPPING AND DISCHARGE OF SEAMEN.

§1259. It shall not be lawful for the master or commanding officer of any foreign vessel, or of any Hawaiian vessel engaged in the foreign trade, under penalty of a fine not exceeding one hundred dollars, to ship or discharge any seaman or other person employed on board of his vessel at any other port or place in the Hawaiian Islands than at Honolulu, Lahaina and Hilo.

§1260. The Minister of the Interior may, in his discretion, grant to any suitable person or persons applying therefor, in writing, a license for one year to establish a shipping office for foreign seamen, at either of the ports of Honolulu, Lahaina or Hilo: provided, however, that not less than two licenses shall be granted for the port of Honolulu. And if, at any time, there shall be found to be any business connection between the parties having licenses under this law, their licenses and bond shall be forfeited.

§1261. Before granting a license to keep a shipping office, the Minister of the Interior shall receive at the hands of the applicant, the sum of three hundred dollars, if the license be for Honolulu, and fifty dollars if the license be for either Lahaina or Hilo, and also a bond with good and sufficient sureties, to be approved by the said Minister, in the penal sum of two thousand dollars, conditioned that he shall not charge or demand more than three dollars as a shipping fee, nor more than ten per cent. of the amount advanced, as a surety fee from any seaman shipped at his office; that he will at no time make default in repay-

ing the amount advanced on account of any seaman for whom he may have become surety, and whom he may have failed to deliver on board any vessel, at the time agreed upon by the master or agent of such vessel; and that he will in no case ship a seaman who has not a permit from the Harbor Master; or contribute in any way to the infraction of the laws of the Republic. Said bond shall be executed in the presence of, and acknowledged before the Minister of the Interior, who shall forward a certified copy thereof to the District Magistrate of the port for which the license is granted, and such copy shall be considered as competent evidence in any case relating to such bond.

§1262. In every case of a suit for a breach of the bond given by any shipping master, the District Magistrate of the port shall have jurisdiction over, and may decide the same, without the aid of a jury, subject, however, to the right of appeal.

§1263. When the condition of the official bond of any shipping master shall be broken, to the injury of any person, such person may, at his own expense, institute a suit thereon, in the name of the Minister of the Interior, and prosecute the same to final judgment and execution.

§1264. It shall be the duty of every shipping master to demand and receive the Harbor Master's permit from every seaman whom he may ship, and place the same at the disposal of the chief of police of the port, and he shall also deliver to every such seaman a certificate of his shipment, stating the name of the ship on which he is engaged to serve, and the time at which he is to render himself on board.

§1265. Whoever, without a license, shall ship a foreign seaman, shall be subject to a fine of one hundred dollars for each offense, upon conviction thereof before a District Magistrate: provided, however, that nothing in this section contained, shall be construed to forbid masters of vessels to ship seamen for their own vessels, without the intervention of a shipping master.

## SHIPPING AND DISCHARGE OF SEAMEN. 407

To establish the offense contemplated in this section, it is sufficient to prove that the party charged therewith has procured the shipment of a foreign seaman as an agent, for a beneficial consideration, although he may not have demanded or received a shipping fee, or surety fee, by a percentage of the amount advanced to the seaman shipped.

§1266. No commanding officer of any foreign vessel, or Hawaiian vessel engaged in foreign trade, shall discharge any seaman in any port of the Hawaiian Islands, without the written consent of the Harbor Master of such port; nor shall any consul or vice consul, or consular agent, grant his consent to the discharge of any such seaman until the written consent of the Harbor Master has been first obtained. Whoever shall violate any of the provisions of this section shall be subject to a fine not exceeding one hundred dollars in the discretion of the Court.

§1267. Upon the application of any Consul, Vice Consul, or Consular Agent, for the discharge of any foreign seaman, and upon his filing with the Harbor Master the bond of such seaman, in the penal sum of one hundred dollars, conditioned that he will leave the Republic within sixty days from his discharge, and will not be guilty of any breach of the laws during his stay on shore, said Harbor Master may, if he sees no good reason to the contrary, give his consent to such discharge, and grant a permit to the seaman to remain on shore for sixty days. The seaman's discharge shall be written at the foot of every such permit, and the Harbor Master shall keep a record of the same.

§1268. In case of Hawaiian vessels engaged in foreign trade, and vessels having no Consul resident at the port where they wish to discharge seamen, the Harbor Master may consent to such discharge, upon the application of the master of any such vessel.

§1269. If at the expiration of the time allowed in the permit of any foreign seaman, he shall not have departed this Republic,

he may, in addition to the forfeiture of his bond, be treated as a deserter: provided, always, that the Harbor Master may, upon satisfactory proof that such seaman is peaceably disposed, from time to time, extend the period allowed for his departure, to a further sixty days, without a forfeiture of the condition of his bond.

§1270. No foreign seaman, regularly discharged from any vessel, shall be liable for any debts contracted by him within the period of his permit to remain in the Republic; provided, always, that this exemption shall not apply to any period for which his permit may have been extended, beyond the first sixty days.

§1271. No seaman, legally attached to any vessel, while lying in any of the ports of this Republic, shall be liable for any debts he may contract while so attached.

§1272. On the shipping of any natives to serve on board any vessel, bound on a foreign voyage, the master of such vessel shall pay to the Governor of the Island, or his agent, in lieu of the personal taxes of such native, the sum of six dollars, if the time for which he has shipped shall not exceed twelve months; and if it shall be for any period over twelve months, the sum of twelve dollars.

Provided, always, that if any native shall engage on board a Hawaiian registered vessel, for a period not exceeding six months, no charges in lieu of taxes shall be collected from the master of the vessel, unless the term of his engagement on board of such vessel shall include the time of the payment of taxes; in which case, the amount of such seaman's taxes shall be collected from the master of the vessel, and said master shall have the right to retain the amount so paid out of the wages of such seaman.

§1273. Every native of this Republic who has shipped in a vessel bound on a foreign voyage, the master of which vessel has

complied with the provisions of the last preceding section, shall be free from all personal taxes during the period of his service on board of such vessel, and until his return to this Republic.

§1274. No portion whatever of the expenses of shipping or discharging native sailors shall be paid by them, or be deducted from the share or wages due them, but shall be paid wholly by the master of the vessel.

§1275. Every sailor, whether a native or a foreigner, who shall have been employed on board any vessel, without having made a specific written agreement with the master, or shipping master, or commander of such vessel, respecting his service and wages, shall be entitled to receive compensation for his services, at the highest rate of wages paid to any person of his class on board said vessel.

§1276. The Minister of the Interior shall appoint in each of the ports of Honolulu, Lahaina and Hilo, one or more agents, in whose presence, or in the presence of whose deputies, all native seamen of this Republic shall be shipped, discharged and paid off.

§1277. Every such agent, before entering upon the duties of his office, shall give a bond to said Minister, in the penal sum of two thousand dollars, with good and sufficient sureties to be approved by said Minister, conditioned that he will honestly and faithfully discharge all the duties of his office. Every such agent shall hold office for the term of two years, but may be removed at any time by the Minister of the Interior.

§1278. When any native seaman is discharged from any whale ship, or other vessel engaged in foreign trade, the master thereof shall, previous to settlement with such seaman, exhibit to the agent appointed by the Minister of the Interior, or to his deputy, a detailed account of the debts incurred by said seaman to said vessel, and the amount of wages earned by said seaman,

#### 410 SHIPPING AND DISCHARGE OF SEAMEN.

which account shall, if required, be verified by oath, to be administered by the said agent.

§1279. It shall be the duty of the agent appointed to superintend the shipping and discharge of native seamen, upon the request of any such seaman, to render him all the assistance in his power in making his agreement as to service and wages, with the master of the vessel with whom he is about to ship, and to see that his name is duly entered on the crew list and shipping articles of such vessel, in conformity with the laws of the country to which she belongs.

§1280. It shall not be lawful for said agent to ship any native seaman for a longer term of service than two years.

§1281. In case of the death of any native seaman during the voyage, said agent shall be empowered, in his own name, to demand, sue for, and receive the wages due said seaman, and to pay it over to his legal representatives.

§1282. Said agent, in case of any difficulty with the master of a vessel in relation to the settlement of his account with any native seaman, shall be at liberty to call upon the district attorney of the island where he is located, for his assistance, and said attorney shall render his assistance free of charge.

§1283. The compensation of said agent shall be fifty cents for each seaman shipped or discharged before him, and two and a half per cent. on the amount paid to each seaman; which compensation shall be a full satisfaction for all services rendered. Such compensation shall be wholly paid by the vessel, except the two and a half per cent. commission on the amount paid to each seaman.

§1284. No shipment or discharge of, or settlement with any native seaman, shall be binding upon him unless done in the

## SHIPPING AND DISCHARGE OF SEAMEN. 411

presence or with the written sanction of the agent appointed by the Minister of the Interior, or of his deputy.

§1285. It shall be the duty of every such agent to make a quarterly report of the transactions of his office, together with the amount of fees and commissions received by him, to the Minister of the Interior.

§1286. The master or owner of every ship or vessel under the Hawaiian flag, arriving from any foreign port, or from sea, at any port of the Republic of Hawaii shall, before such ship or vessel is admitted to entry, render to the Collector of such Port, a true account of the number of seamen who have been employed on board since the last entry at any Hawaiian port; and pay to said Collector at the rate of twenty-five cents per month for each and every seaman so employed, which amount such master or owner is authorized to retain out of the wages of said seaman.

§1287. The master of every coasting vessel employed in the carrying trade between the different ports, roadsteads or harbors of the Republic of Hawaii, shall render quarterly to the Collector-General of Customs, or to any Collector under his directions, a true list of all seamen employed by him during the preceding three months; and pay to said Collector-General, or Collector, at the rate of twenty-five cents per month for each and every seaman so employed, which sum said master is authorized to retain out of the wages of such seaman.

§1288. The returns required in the preceding sections shall be made under oath in such manner and form as the Collector-General may prescribe. If any owner or master shall make a false return, he shall be deemed guilty of perjury, and be punished accordingly. He shall also be subject to a penalty of one hundred dollars, for the benefit of the fund hereinafter created, and his vessel be liable to seizure, condemnation and sale, to secure the payment of such penalty.

§1289. The several Collectors shall make a quarterly return of the sums respectively collected by them under the foregoing provisions, to the Collector-General, who is required to pay over the same, with such amount as he may have received from masters or owners of vessels, into the Public Treasury, to be held solely as a "marine hospital fund" for the relief of sick and disabled Hawaiian seamen. The Minister of the Interior is hereby authorized to provide out of the same, for the temporary relief and maintenance of such seamen, in such manner as he may deem proper, until hospitals, or other suitable institutions, are established for that purpose within the Republic.

§1290. Whatever surplus of moneys collected under the foregoing provisions may remain, after defraying the expenses of such temporary relief and support, shall be invested in exchequer bills, or other Government securities at the discretion of the Minister of the Interior, until a sufficient fund is accumulated for the purchase of a proper site for a marine hospital, and the erection of suitable buildings thereon, or for the provision of other suitable hospital accommodations for seamen, when it shall be his duty to apply such fund for that purpose. Said Minister is authorized to receive at any time, in the name of the Government, donations of land, money, or other property for marine hospitals; and the same shall be set apart and applied only to that object.

§1291. If a general or other hospital should be established in any of the seaport towns of the Republic, the Minister of the Interior may, at his discretion, contract with the same to apply any part of the marine hospital fund to support thereof, on condition that full provision is made for the accommodation, relief and maintenance of sick and disabled Hawaiian seamen.

§1292. No contract entered into within the jurisdiction of this Republic, between a native citizen and the owners, agent or master of any foreign vessel, for the perform-



ance of services as a seaman, shall have any binding effect, or be regarded as operative, in the Courts of this Republic, unless the said owners, agent or master have complied with the statute laws of this Republic regulating the enlistment of native sailors.

§1293. Any native citizen who may enter into a contract to perform services as seaman on board of a foreign vessel, without the written consent of the Governor of the island, or his agent, upon which the contract is entered into, having been first obtained according to the law of the land, shall be subject to a penalty of fifty dollars, to be recovered by prosecution in the Courts of the island where the contract is made, and also to be arrested and detained by the order of the Governor thereof, or the Government shipping agent, until the vessel upon which he has agreed to perform the duties of a seaman, has departed the Republic.

## NOTE TO CHAPTER 71.

§§1259-1271 are P. C. Ch. 71, §§1-13.

§1272 is S. L. 1870, Ch. 38; C. L. p. 35.

§§1273-1280 are P. C. Ch. 71, §§19-26.

§§1281-1293 are P. C. Ch. 71, §§28-40.

P. C. Ch. 71, §§14-17 and §27 repealed, S. L. 1890, Ch. 27.

Cases in Hawaiian Reports: *Bradley v. Thurston*, 7 Haw. 538; *Hospital v. Collector*, 9 Haw. 578.

## CHAPTER 72.

## DESERTERS AND MUTINEERS.

§1294. If any seaman desert from a vessel, the commanding officer shall, under the penalty of a fine not exceeding one hundred dollars, within forty-eight hours thereafter, inform the Chief of Police of the port of such desertion, who shall cause diligent search to be made for such deserter, to the end that he may be restored to his vessel.

§1295. In case of the arrest of any deserter near the port, where the vessel is at anchor, the Chief of Police shall be entitled to receive from the commanding officer for such arrest, the sum of six dollars; and if arrested at a distance of more than five miles from the port, said Chief of Police shall be entitled to receive the sum of twelve dollars, besides such necessary expenses as may have been incurred in arresting such deserter, and bringing him to the port.

§1296. Every seaman who shall desert from the vessel on which he has shipped, bound for a foreign voyage, after the said vessel shall have left port, shall, on being arrested, pay back to the agent of said vessel the amount of his advance, or in default thereof, be confined at hard labor for the term of not more than six, nor less than four months, in the discretion of the Court.

§1297. In case the commanding officer of any vessel shall decline to receive any deserter from his vessel upon arrest, and such deserter shall remain in prison after his arrest, the commanding officer shall pay one dollar per day for the time during which said deserter shall so remain imprisoned; and in all cases

when a vessel shall leave the port, and any person who deserted from the same shall remain in prison, or be arrested thereafter, the said deserter shall be liable to pay the fee for his arrest as provided in Section 1295, and for his detention as above prescribed.

§1298. The agents, owners, or masters of vessels, on account of whom the deserters have been apprehended, shall, upon the requisition of the local authorities, take or send such deserters out of the Republic, or give security to the satisfaction of the Chief of Police, for their good conduct; and in case any such agent, owner or master, shall refuse or neglect to comply with such requisition, he shall be subject to the payment of five dollars per day, for the time during which any such deserter is detained in custody.

§1299. All deserters, not taken or sent out of the Republic, may be put to hard labor, during their confinement, by the Chief of Police, at his discretion.

§1300. Any person aiding or abetting the desertion of any seaman, shall be subject to a fine not exceeding one hundred dollars, in the discretion of the Court.

§1301. Upon written application made to the Chief of Police of any port, by any foreign Consul, Vice Consul, or Commercial Agent, residing in this Republic, requesting the arrest of any mutinous person, or persons, on board of any vessel of his nation, being within the jurisdiction of this Republic, it shall be lawful for such chief, or any other officer of police, to proceed on board such vessel, and arrest the person or persons described in such application: provided such Consul, Vice Consul, or Commercial Agent, shall state in his application, that he will indemnify the Chief of Police from all damages, which may result from said proceeding, and from the detention of such person or persons, and that he will pay all costs and charges incident thereto.

§1302. It shall be lawful for the Chief of Police to detain such arrested person or persons, in prison, until called for by the foreign agent, who caused their arrest.

§1303. Any officer or seaman legally attached to any Hawaiian vessel engaged in the foreign trade, who shall refuse duty on or desert from any such vessel, shall, upon conviction before any District Magistrate, be subject to a fine not exceeding fifty dollars and costs, and in default of payment of such fine and costs be imprisoned at hard labor not exceeding six months. And may be ordered to be returned to his vessel.

§1304. Any District Magistrate may, on complaint made by the master, owner or agent of any such vessel, issue his warrant for the arrest of any person charged with either of the said offenses.

§1305. It shall be lawful for the Marshal or his deputy, or any Sheriff or gaoler having in his custody any person convicted under the provisions of Sections 1303 and 1304, when the vessel to which such person is attached is about to proceed upon her voyage, upon the requisition of the master of such vessel, and upon payment of the costs of the prosecution, to deliver such person on board his said vessel, notwithstanding the term of his sentence shall not have expired.

§1306. Upon the hearing of any such complaint as aforesaid, the shipping articles certified by any Hawaiian Consul or Commercial Agent shall be *prima facie* evidence of the legal shipment of the party accused.

#### NOTE TO CHAPTER 72.

§§1294-1302 are P. C. Ch. 72, §§1-9.

§§1303-1306 are S. L. 1878, Ch. 23; C. L. p. 178.

Cases in Hawaiian Reports: Re Brown, 6 Haw. 705.

## CHAPTER 73.

## THE REGISTRY OF VESSELS.

§1307. Upon the payment or discharge of any mortgage or hypothecation, upon a registered vessel, or any part thereof, it shall be the duty of the mortgagee or pledgee, or his lawful representative, to execute and deliver to the mortgagor or pledgor a release duly acknowledged, which shall be entered of record by the Collector-General; or to cancel the same upon the record by written entry of satisfaction thereon, under penalty of a fine not exceeding one hundred dollars for every such neglect or refusal, and under a further liability to pay all damages occasioned thereby.

§1308. Every steam vessel of the Hawaiian Islands, in addition to having her name painted on her stern, shall have the same conspicuously placed in distinct, plain letters of not less than six inches in length on each outer side of the pilot house, if it has such, and in case the vessel has side wheels, also on the outer side of each wheel house; and if any such steamboat be found without having the name placed as required, she shall be subject to a penalty of not more than \$50.

## NOTE TO CHAPTER 73.

§1307 is P. C. Ch. 73, §1.

§1308 is S. L. 1886, Ch. 17, §10.

## CHAPTER 74.

## PASSPORTS.

§1309. Every person who may have resided on these islands for more than thirty days, wishing to leave the Republic, shall make application to the Collector of the port from which he intends to sail, for a passport.

§1310. It shall be lawful for the Collectors of Customs, and in case of their sickness or absence, for their respective deputies, to grant passports to all applicants for the same, as provided in the last preceding section, upon the payment of one dollar, the price of the stamp, except in the following cases:

*First.* In case of the indebtedness or obligation to pay money, of the applicant, to the Government, or to any private individual, of which the Collector has received written notice, accompanied by a request not to grant a passport;

*Second.* In case the applicant is a party defendant in a suit, civil or criminal, pending before any Court in this Republic, of which the Collector shall have received written notice;

*Third.* In case of a writ of *ne exeat regno*, or any other process to arrest or stay the departure of the applicant, shall have been issued by any Court of the Republic, of which the Collector shall have received notice in writing;

*Fourth.* In case of a written complaint being made to the Collector, that the applicant is about to depart the Republic, leaving his wife or family unprovided for.

*Fifth.* All protests against the granting of a passport shall be made on a stamped form, to be furnished by the Collector of Customs, for which a charge of three dollars shall be made.

*Sixth.* The written notice, complaint or protest and accompanying request not to grant a passport required by this section, shall be duly attested by oath as to the truth of the claim or debt owing by the person applying for a passport made before a Collector of Customs, or his deputy, of the port where application for a passport is made, and unless so attested shall have no effect against granting a passport, and after the expiration of ten days from the presentation of the said written notice, complaint and protest, it shall be the duty of the said Collector of Customs, or his deputy, to grant a passport to the person designated in said notice, complaint or protest, unless said Collector of Customs, or his deputy, shall, within this time be satisfied that in some Court having jurisdiction, a suit has been commenced to enforce the said claim or collect the said debt; and on receiving written notice thereafter of the termination of said suit or the filing of an approved bond conditioned to pay the amount claimed by the person protesting against the issuing of such passport in case the suit shall terminate adversely to him, it shall be the duty of the said Collector of Customs, or his deputy, to grant such passport, anything in this Act contained to the contrary notwithstanding.

§1311. A passport shall not be refused to any laborer who may have served out a written contract to labor, or has been duly discharged from service by reason of any demand, claim or debt arising out of said contract to labor made by or owing to his employer or any person in his behalf.

§1312. Every Collector of Customs may, after granting a passport, cancel the same, upon being satisfied that it was obtained by any deceit or misrepresentation; or that the permission to leave the Republic will work great wrong or injustice to the Government, or to any individual. The Collector shall, within twenty-four hours after cancelling any such passport, give written notice of such cancellation to the master or commanding officer of every vessel in port, either by personal ser-

vice or by leaving the same on board such vessel, and shall forward a like notice to the Government Gazette for publication.

§1313. No passport shall be construed to prevent the arrest of any person obtaining the same, upon process issuing out of any Court of the Republic.

§1314. Every person who shall depart from any port in the Republic with the intention of leaving the same, without first obtaining a passport, shall be subject to a fine not exceeding one hundred dollars, in the discretion of the Court.

§1315. Every Collector who shall grant a passport contrary to the provisions of Section 1310, and shall refuse to cancel the same in accordance with the provisions of Section 1312, previous to the departure of the person obtaining the same, shall be subject to a fine not exceeding one hundred dollars, in the discretion of the Court; and the party injured thereby may have his remedy against him by a civil action.

§1316. Every master or commanding officer of a vessel, who shall convey out of this Republic any person not having a passport, shall be subject to a fine of fifty dollars, and be liable for all debts which such person may have left unpaid in this Republic, and if he shall fail to pay such fine and debts, such vessel shall be subject to seizure, condemnation and sale for the payment thereof; *provided always*, if the master or commanding officer of such vessel shall by the aid of the police of this Republic make a thorough and faithful search of the vessel after clearance, and previous to passing the boundaries of the jurisdiction of this Republic, with a view to guard against persons making their escape, such master or commanding officer of a vessel shall not be liable to said fine or liable for the payment of the debts which such person may have left unpaid in this Republic, nor shall the vessel be liable to seizure and con-



fiscation. *And provided further*, that none of the provisions of this Section or Article shall be construed as applicable to any seaman legally shipped on board of any vessel.

§1317. Nothing in this Article contained shall be construed as contrary to Section 51 of the Civil Laws, which provides for the granting of passports by the Minister of Foreign Affairs in certain cases.

§1318. Any person who has obtained a passport to leave the Republic, who may leave and return within one year, may leave again under the same passport, there being no written notice filed against him; provided it be vised by the Collector of the port at which any such party may embark. After the lapse of one year a new passport shall be required.

§1319. In all cases in which any Collector shall have refused or cancelled a passport, on any of the grounds set forth in Sections 1310 and 1312, such Collector may, in case such applicant shall file with him a sufficient bond with sureties to be approved by him, conditioned that said applicant will pay the amount of his indebtedness, or obligation, or abide the results of the suit, and pay the amount of any judgment that may be rendered against him in any pending suit, or provide for the support of his family, as the case may be, issue a passport to the party applying for the same.

NOTE TO CHAPTER 74.

§1309 is P. C. Ch. 74, §1.

§1310 is P. C. Ch. 74, §2, amended S. L. 1874, Ch. 10, and S. L. 1882, Ch. 15; C. L. p. 185.

§1311 is S. L. 1882, Ch. 15; C. L. p. 185.

§§1312-1315 are P. C. Ch. 74, §§3-6.

§1316 is S. L. 1874, Ch. 29; C. L. p. 187.

§1317 is C. L., §652.

§§1318-1319 are P. C. Ch. 74, §§10-11.

## CHAPTER 75.

## WRECKS.

§1320. It shall be the duty of the Marshal, Sheriffs, and their deputies throughout the Republic, under the direction of the respective Governors, to take charge of, secure and preserve for the owners thereof, all wrecks and wrecked goods that may be cast upon the shores of their respective jurisdictions.

§1321. Every Governor, immediately on receiving intimation of any shipwreck, or of the finding of any shipwrecked property to the amount of one hundred dollars, or more, on any of the shores or waters within his jurisdiction, shall order the Sheriff to repair to the place where said wreck or property may be found, and in case the same shall not be in custody of any owner or agent, he shall take charge thereof, and shall secure and preserve the same for the owners.

§1322. The Sheriff, in such case, may employ as many persons as he shall think proper, to assist in preserving the property; and he may appoint guards to receive the same, and may suppress all tumults and disorders; and if any person shall disobey any lawful order of the Sheriff, he may be imprisoned summarily, as the case may require, and upon subsequent trial he shall be fined for every such offense in a sum not exceeding ten dollars, or be imprisoned at hard labor for a term not exceeding three months.

§1323. The Sheriff shall, on every such occasion, take an inventory of all the property that shall come to his possession;

and when required by the owner of the property, or his agent, or by any person interested, he shall make oath to the truth of such inventory, and shall deliver a copy thereof, if required, together with all the said property, to the owner, or agent, or other person lawfully authorized to receive it; provided, there shall be first paid, or secured to be paid, to the Sheriff, a reasonable compensation for his services, and such Custom House duties and other charges, if any, as he shall have paid or become liable to pay, on account of the property in question.

§1324. If the Sheriff and the other party shall not agree on the sum so due to the Sheriff, then the case may be submitted to arbitrators, to be chosen by the respective parties; but if the other party shall not agree to submit the case to arbitrators, it shall be forthwith submitted to some Judge of the Supreme Court, or Circuit Court of the Island, who shall, either in vacation or term time, hear and decide the case in a summary manner, on due notice, and may issue such process as may be necessary to carry his decision into effect.

§1325. No person interested in any such property shall be held to pay to any person, other than a Sheriff, any compensation for services or expenses in taking or securing the property, unless it be for property taken or secured before the arrival of the Sheriff.

§1326. If any person shall, after the arrival of the Sheriff, take, detain or intermeddle with any property shipwrecked, or found as aforesaid, except under the direction of the Sheriff, owner, or agent, or other person interested, he shall be subject to a fine not exceeding five hundred dollars, in the discretion of the Court.

§1327. The Sheriff, as soon as may be after his arrival at the place where such property shall be found, shall publish the particulars of the shipwreck, and of the goods found, with such

other material facts as he shall ascertain, in such manner as he shall deem best for the information of all parties interested; and in case of neglect so to do, he shall be subject to a fine not exceeding one hundred dollars.

§1328. The Sheriff, under direction of the Governor, may dispose of so much of the property by public auction, as shall be necessary to pay duties thereon for which they may be liable to the Custom House.

§1329. He may sell by auction to the best advantage, such of the property as may be of a perishable nature, whenever necessity may require it, giving reasonable public notice, and if practicable, in a public newspaper.

§1330. If no person interested shall appear and establish his claim to such property, the Sheriff shall present, under oath, to the Consul or Vice-Consul, if there be one in the Republic of the nation to which the wrecked property may belong, in case of its being foreign property, an inventory of the same; and if sold, an account of the sales; with an account of all moneys paid by him as duties and expenses on the same; and he shall pay and deliver to such Consul or Vice-Consul the balance of such accounts, with all the property remaining in his hands, and all papers found by him on board such wreck.

§1331. In all other cases, the Sheriff shall render a like account, and pay over the balance to the Minister of Finance, who shall retain the same, subject to the claims of the parties interested, for the period of two years, when, if remaining unclaimed, it shall be used for the benefit of the Public Treasury.

§1332. In any law relating to wrecks and shipwrecked property, the word "Sheriff" shall be construed to mean Marshal, Sheriff, or Deputy Sheriff.

NOTE TO CHAPTER 75.

§§1320-1332 are P. C. Ch 75, unaltered.

## CHAPTER 76.

## BARRATRY.

§1333. If any captain, or other officer, or mariner, of a ship or vessel, on the high seas, or any other waters within the admiralty or maritime jurisdiction of this Republic, shall piratically or feloniously run away with such ship or vessel, or any goods or merchandise on board such ship or vessel, to the value of fifty dollars, or yield up such ship or vessel voluntarily to any pirate, every such person so offending shall be deemed guilty of felony, and, on conviction thereof, shall be punished by fine not exceeding ten thousand dollars, or by imprisonment at hard labor not exceeding ten years, or both, according to the nature or aggravation of the offense.

## NOTE TO CHAPTER 76.

§1333 is P. C. Ch. 76, unaltered.

## CHAPTER 77.

## OFFENSES AGAINST SUNDRY DEPARTMENTS OF THE GOVERNMENT.

## PART I.—NOTARIES PUBLIC AND OFFICERS TO TAKE ACKNOWLEDGMENTS.

§1334. On the resignation, removal from office, or death, of any notary public, his records shall be deposited with the Clerk of the nearest Court of Record to the place where his office was situated; and by a neglect for three months to comply with the above requisition, such notary, his executor or administrator, shall forfeit not less than fifty, nor more than five hundred dollars, in the discretion of the Court. All forfeitures under this section shall be one-half to the Government, and the other half to him who shall sue for the same.

§1335. All Judges and other officers now, or who may hereafter be authorized by law to take acknowledgments to instruments, besides the certificate of acknowledgment indorsed upon the instrument, shall keep a record of every acknowledgment in a book of records. Each record shall at least set forth the date of acknowledgment, the parties to the instrument, the persons acknowledging, the date and some memorandum as to the nature of the instrument acknowledged.

§1336. The books of record so kept shall every five years, and upon the resignation, death or removal from office of such Judge or other officer, be deposited with the Clerk of the Court of Record nearest the place where such Judge or other officer resided.

§1337. The Clerks of the several Courts of Record shall carefully preserve the books of record deposited with them as provided herein, filing the same with the records of the Court. Such records, both while in the custody of such acknowledging officers and after such filing, shall be open at all reasonable times to the inspection of any responsible person, without fee or reward.

§1338. Any of the officers to take acknowledgments aforesaid, who shall fail to keep the record herein directed, or upon failure to deposit the same with a Clerk of a Court of Record as directed shall be liable to pay a fine of not less than fifty dollars nor more than two hundred and fifty dollars, which may be recovered of such officer, his executors or administrators before any District Magistrate. The first period of five years contemplated by this Act shall expire July 1st, A. D. 1893.

§1339. It shall be the duty of every Notary Public or the officer authorized to take acknowledgments to instruments, before taking any acknowledgment, to first carefully inspect any instrument proposed to be acknowledged before him, and ascertain whether there are any interlineations, erasures or changes in such instrument.

If there are any such interlineations, erasures or changes, he shall call the attention thereto of the person offering to acknowledge such instrument, and if they are approved by such person, the said acknowledging officer shall place his initials in the margin of said instrument opposite each such interlineation, erasure or change, and shall note at the foot of the instrument before the acknowledging clause what each such interlineation, erasure or change consists of, and the number of the page and line on which it occurs.

§1340. Every Notary Public or other person authorized to take acknowledgments to instruments who shall take the ac-

knowledge of any person to any instrument in which there are interlineations, erasures or changes, and who shall fail to observe or perform the requirements, or any of them, of the last preceding section, shall be liable, upon conviction thereof before any District Court, to a fine not to exceed the sum of two hundred dollars.

§1341. Any officer authorized to take acknowledgments to instruments who shall knowingly incorporate in the certificate of acknowledgment any false or misleading statement as to the facts therein contained, shall, on due proof thereof before any District Magistrate, be punished by fine not to exceed one hundred dollars, or by imprisonment at hard labor not to exceed two months, or both. Nothing herein contained shall be construed to do away with the liability for civil damages for such act.

#### PART II.—MARRIAGE RECORDS.

§1342. It shall be the duty of every person authorized to solemnize marriage within this Republic to make and preserve a record of every marriage by him solemnized, comprising the names of the man and woman married, their place of residence, and the date of their marriage, and to deliver a certificate of such marriage, signed by him, to the parties married.

§1343. Every person authorized to solemnize marriage, who shall neglect to keep a record of any marriage by him solemnized, or to deliver a certificate thereof to the parties married, shall be subject, upon due proof of such neglect before any District Magistrate, to a fine of fifty dollars.

§1344. It shall be the duty of every person authorized to solemnize marriage, to deliver to any person requesting the same, a written certificate of any marriage by him solemnized, upon being paid or tendered the sum of fifty cents.



Any person authorized to solemnize marriage, who shall refuse, upon being paid or tendered the sum of fifty cents, to deliver to any person requesting the same, a certificate of any marriage by him solemnized, shall, upon due proof of such refusal before any District Magistrate, be subject to a fine of fifty dollars.

§1345. Upon the death or departure from the country of any person authorized to solemnize marriage, it shall be the duty of his executor, administrator, or other legal representative, to deliver the records of marriages kept by such authorized person to the Minister of the Interior, under a penalty, upon due proof of neglect to make such delivery before any District Magistrate, of a fine of one hundred dollars.

§1346. It shall be the duty of the Chief Clerk of the Department of the Interior, upon being paid or tendered the sum of fifty cents, to deliver to any person requesting the same, a certified copy of any entry found in any record of marriages deposited in said department, under the hand of said clerk and the seal of the department.

### PART III.—FRAUDULENT EXPORTATION.

§1347. Every person who shall be in any way engaged in fraudulently exporting or attempting to export to any port of the United States, produce of foreign growth or manufacture, especially rice and sugar, whether mixed with the Hawaiian article of the same name and character or in separate packages, shall, on conviction, be subject to a fine not exceeding one thousand dollars, or imprisonment at hard labor not exceeding two years, in the discretion of the Court, and all goods, wares and merchandise, especially the articles rice and sugar, so exported or attempted to be exported shall be forfeited, and may be seized, condemned and sold for the benefit of the Hawaiian Government.

§1348. In order to carry into effect the provisions of the preceding section, an officer skilled in distinguishing different growths of rice, to be called the "export guard," shall be appointed to examine all packages of that article destined for export. Any packages suspected by him to contain a mixed or spurious article and not entirely of Hawaiian growth and produce, shall be subjected to a careful examination, and on confirmation that the said rice is mixed or entirely of foreign growth and produce, the whole quantity of which said package or packages form a part shall be confiscated and its owners dealt with as provided in Section 1347.

The officer so appointed shall be remunerated by a small fee, to be fixed by the Minister of Finance, to be paid by the exporter, and one-fourth of all sums realized from the confiscation of all attempted fraudulent exports.

#### PART IV.—EVASION OF STAMP DUTIES.

§1349. No officer of any body corporate shall, issue or deliver any certificate of the ownership of stock in or of such corporation, nor note the sale or transfer of any share or shares of stock in such corporation upon the stock book of such corporation, except such new certificate, or the certificate so transferred, shall have affixed thereto stamps of the value of twenty cents for each one hundred dollars, or fraction thereof of the par value of the shares of stock represented or certified by such certificate, which stamps shall be paid for by the person to whom such certificate shall be issued and delivered, or by the person who requests the noting of such sale or transfer of stock in the stock book of the corporation. Provided, however, that the stamp duty above provided for shall not be held to apply to certificates issued to the owner of the shares represented by such certificates in cases where there is no change of ownership of such shares, and that in case of re-issue, to a former owner, the officer of the company issuing the stock shall note on

the certificate the words "re-issue," and sign the same. And it shall be the duty of the officer making the annual exhibit of such body corporate to the Minister of the Interior, to include therein a sworn statement of the number and par value of the shares of the stock thereof, certificates for which have been issued or delivered, or the sale or transfer thereof noted in the stock book of the corporation during the period covered by such exhibit. Any person who shall violate any of the provisions of this Section shall be subject to a fine of not less than fifty nor more than two hundred and fifty dollars, upon conviction thereof before any Magistrate.

## NOTE TO CHAPTER 77.

## PART I.

§1334 is P. C. Ch. 77; §§1-2.

§§1335-1338 are S. L. 1888, Ch. 18.

§§1339-1340 are S. L. 1896, Act 55.

§1341 is S. L. 1882, Ch. 41; C. L. p. 408.

## PART II.

§§1342-1346 are S. L. 1864; C. L. p. 424.

## PART III.

§§1347-1348 are S. L. 1880, Ch. 39; C. L. p. 655.

## PART IV.

§1349 is P. G. Act 37.

Marriage records must be sent to Registrar. See P. L. §966.

## CHAPTER 78.

## MASTERS AND SERVANTS.

§1350. There are two kinds of servants in this Republic, viz:

1. Apprentices, that is, those engaged to serve any one in order to learn some art, trade, profession, or other employment.
2. Those who engage to serve by the day, week, month, year, or other fixed time, in consideration of certain wages.

## PART I.—APPRENTICES.

§1351. All minors above the age of ten years, may be bound as apprentices or servants, if females, to the age of eighteen years, or to the time of their marriage within that age; and if males, to the age of twenty years, in the manner following:

1. By the father of such minor; or, if he be dead, or be incompetent so to do from lunacy, idiocy, habitual drunkenness, or other cause, or if he shall have abandoned and neglected to provide for his family, then,
2. By the mother; if the mother be dead, or incompetent, or if she refuse, then,
3. By the guardian of such minor, duly appointed. If such minor have no parent living, or none competent to bind or apprentice him, or her, and there be no guardian, then,
4. By the governor of the Island in which such minor shall reside.

§1352. The authority heretofore possessed by the different Governors, to bind out minors by articles of apprenticeship as

provided by Section 1351, is hereby transferred to the Judges of the Supreme Court, or of any Circuit Court or other Court of Record sitting in Probate, any one of whom may act in the premises.

§1353. No minor shall be bound as aforesaid, unless by a contract of two parts, signed and delivered by both parties; and one part shall be kept for the use of the minor, by his father, mother, guardian or the governor.

Every contract for the binding out of any minor as aforesaid, shall contain an agreement on the part of the person to whom such minor shall be bound, that he will cause such minor to be instructed to read and write, and if a male, will cause him to be further instructed in the general rules of arithmetic.

The age of every minor shall be inserted in the contract, and shall be taken to be the true age, without further proof thereof.

§1354. All considerations of money or other things, paid or allowed by the master, upon any contract of apprenticeship, made in pursuance of the foregoing provisions of this chapter, shall be paid or secured to the sole use of the minor thereby bound.

§1355. Parents, guardians, and the governors of the respective Islands, shall enquire into the treatment of minors bound by them respectively, and of all who shall have been bound by their predecessors in office, and defend them from all cruelty, neglect, misusage, or breach of contract, on the part of their master.

§1356. If any master shall be guilty of any cruelty, misusage, or violation of the terms of the contract, towards any minor so bound, a complaint may be made by the father, mother, guardian, governor, or minor, to any Circuit Judge or District

BB

Magistrate of the Island in which said master shall reside, who shall have all the requisite powers for hearing and determining such complaint.

§1357. After a full hearing of the parties, or of the complainant if the master shall neglect to appear after being duly notified, the Magistrate, in case the complaint is sustained, may render a judgment that the minor be discharged from his apprenticeship; and for the costs of the suit against the master, and may issue execution accordingly.

§1358. If it shall appear that the complaint was made without any just or reasonable cause, the Magistrate may award costs for the master against the complainant, and issue execution accordingly.

§1359. Every master shall moreover be liable, whether such complaint be filed or not, to an action on the contract, for the breach of any covenant on his part therein contained, and all damages recovered in such action shall be the property of the minor. Such action may be brought either by the parent, guardian or governor, or their successors in the trust of the minor, or by the minor himself after the expiration of the term of apprenticeship or service. No such action shall be maintained unless it be commenced during the term of apprenticeship or service, or within two years after the expiration thereof.

§1360. If judgment in such action, brought during the term of service or apprenticeship, shall be rendered in favor of the plaintiff, the Magistrate may, upon motion of the plaintiff, discharge the minor from his apprenticeship or service.

§1361. If any apprentice or servant bound as aforesaid shall, without just cause, depart from the service of his master, any District Magistrate of the Republic, upon complaint made under oath by the master, or by any one on his behalf, may issue

a warrant to apprehend the apprentice or servant, and bring him before the said Magistrate; and if the complaint shall be supported, the Magistrate shall order the offender to be restored to his master, and he shall be compelled to serve double the time of his absence, unless he shall make satisfaction for the loss and injury sustained by such absence; provided, however, that such additional term of service shall not extend beyond one year, next after the end of the original term of service.

§1362. The Magistrate's warrant, when directed to any officer or other person by name, shall authorize him to convey the offender to the place of residence of the master, although it may be on any other Island in the Republic.

§1363. All the costs incurred in any such process against a servant or apprentice, shall be paid in the first instance by the complainant, and if the complaint shall be supported, the master may recover the amount of such costs in an action against the minor, after he shall arrive at full age.

§1364. If any such apprentice or servant shall be guilty of any gross misbehavior, or refusal to do his duty, or willful neglect thereof, his master may make complaint thereof to any Circuit Judge or District Magistrate of the Island in which said master shall reside, who shall have all the requisite powers for hearing and determining such complaint.

§1365. After a full hearing of the parties, or of the complainant alone, if the adverse party neglect to appear after being duly notified, the Magistrate, in case the complaint is sustained, may render a judgment that the master be discharged from the contract of apprenticeship or service, and for the costs of the suit; such costs to be recovered of the parent or guardian of the minor, if there be one, who executed the contract, and execution therefor may be issued accordingly; and if there be no parent or guardian liable for such costs, the amount thereof may be

recovered in an action against the minor, after he shall have arrived at full age.

§1366. No contract of apprenticeship to service, made in pursuance of the foregoing provisions of this chapter, shall bind the minor after the death of his master, but the apprentice or servant shall be thenceforth discharged, and the minor may be bound out anew.

§1367. Any contract of apprenticeship or service, made in pursuance of the foregoing provisions of this chapter, on behalf of a minor, may be made either with a woman or a man, and all the foregoing provisions shall apply as well to mistresses as to masters.

#### PART II.—CONTRACT LABOR.

##### TO REGULATE CONTRACTS BETWEEN MASTERS AND SERVANTS.

§1368. All contracts for service between masters and servants where only one of the parties is a native Hawaiian shall be written or printed in both the Hawaiian and English languages. No such contract shall have any effect in law when executed in one language only, provided that nothing herein contained shall be held or construed to prevent any such contracts being written or printed in the Hawaiian language only, where both parties thereto are native Hawaiians.

§1369. The Minister of the Interior is hereby authorized to prepare, in both languages, printed forms of contract, as provided for in the foregoing section, in blank, as to place, time of service, wages, name, place where engaged, and place of residence.

§1370. Every contract for service authorized by Section 1382, shall, in order to its validity, be acknowledged by the



master or his duly empowered agent, and the servant, before the agent to take acknowledgments of contracts, as hereinafter provided, and the certificate of acknowledgment shall be substantially as follows:

Island of..... }  
 Hawaiian Islands. } ss.

On this.....day of....., A. D..... personally appeared before me.....master, and..... servant, known to me (or satisfactorily proved to me by the oath of A. B.), to be the persons executing the above contract, and the same having been by me read and explained to them, they severally acknowledged that they understood the same and that they had executed the same voluntarily and upon the terms and conditions therein set forth.

§1371. In order to carry out the provisions of this Act the Minister of Interior is hereby authorized to appoint an Agent or Agents in each elective district of this Republic who shall have the power to take acknowledgments to the contracts authorized by Section 1382, provided, however, that such Agents shall be authorized to appoint a deputy during their temporary absence from their districts and the deputy so appointed shall be empowered to perform all the duties of the said Agents as prescribed by this Act. Such Agents so appointed shall have the authority and they are hereby required to cancel contracts by writing with ink their names across such stamps. Nothing herein contained shall authorize the appointment of any Judge or his deputy or any employee on a sugar plantation or any storekeeper to such Agency. Any Agent to take acknowledgments authorized by the provisions of this Act, who shall certify to the acknowledgment of any contract not fully stamped shall be liable to a fine not exceeding fifty dollars upon conviction thereof before any District Magistrate.

§1372. The officer taking the acknowledgment shall be entitled to a fee of fifty cents for each contract, to be paid by the

master, and no charge shall be made for the certificate of acknowledgment on the copy of the contract furnished the servant; provided, however, that no officer shall take an acknowledgment to any contract in which he is interested.

§1373. The officer before whom the acknowledgment as above provided is taken, shall cause the money advanced to be paid to the servant in his presence, and shall keep an accurate record of the contracts acknowledged before him, which record shall set forth the names and residences of the parties, the date and term of the contract, the amount of advance paid and the wages stipulated for.

§1374. Every contract for service acknowledged in the manner herein above provided, may be read in evidence without further proof, against any party whose identity has been established; but the said certificate of acknowledgment shall not be conclusive, but may be rebutted by competent testimony.

§1375. No fee paid by the master to any agent, runner or middle-man for the purpose of procuring the services of any servant under the provisions of the Section 1382, shall be charged to such servant or deducted in any way from such servant's wages.

§1376. Every laborer serving under written contract shall be entitled to his full pay under the contract, according to the time he has worked. And no master shall deduct from the wages of any such laborer for lost time, more than the amount of money representing such lost time.

WHEREAS, The law in relation to masters and servants has been misunderstood in some of its provisions and is wrongly interpreted by many persons; and

WHEREAS, Some legislation is necessary in order to prevent such misunderstandings in future and to further define the nature and obligations of the contracts authorized by Sections 1382 and 1383; therefore,

*Be it Enacted, etc.*

§1377. No contract of a married woman to serve another shall be valid in law, unless separated from her husband by decree of a Court of competent jurisdiction; and in case any woman shall contract marriage while under contract to serve another, the marriage shall operate to annul said contract of service.

§1378. In all cases when any person under contract to serve another, shall be sentenced by any Court to make to his master satisfaction for loss of time by desertion, by working a period of time beyond that contracted for, he shall be paid his wages for such extra time worked at the rate stipulated for in the contract.

§1379. No person bound by contract to serve another shall be held or compelled to work for any period of time beyond the date when the contract shall by its terms expire, in liquidation of any debt or advance made to said laborer during the term agreed for at the time of his engagement, and any clause introduced into the contract which shall contemplate any such service for any such advances shall be held utterly void and of no effect, and no contract for labor hereafter to be made shall be penally enforced if more than fifteen dollars advance shall have been received by the servant, in case the term of such contract shall be not more than one year, or if more than twenty-five dollars advance shall have been received by the servant, in case the term of the contract shall be over one year. Provided, however, that such restrictions shall not apply to contracts made with immigrants where larger advances are required for the

payment of expenses incident to the introduction of such immigrants into the Republic.

§1380. In all contracts for service under Section 1382, where the number of hours constituting a day's labor shall not be specified, the length of a day's labor shall be held not to exceed nine hours; for all labor in excess of such time the laborers shall be entitled to compensation at not less than the rate of wages agreed upon in the contract.

WHEREAS, It is proper that the whole nation should observe all Government holidays; and

WHEREAS, It is almost impossible for parties serving under contracts to vote for the Representative they really desire, owing to their being kept at work on the day of election for Representatives; therefore,

*Be it Enacted, etc.*

§1381. All persons now serving under contracts, or may hereafter serve under contracts, shall from and after the passage of this Act, be released from labor on all Government holidays gazetted by the Minister of the Interior, and on the days of election for Representatives; nor shall they be detained or made to work on any of such days.

§1382. Any person who has attained the age of twenty years, may bind himself or herself, by written contract, to serve another in any art, trade, profession or other employment, for any term not exceeding five years.

§1383. All engagements of service contracted in a foreign country, to be executed in this, unless the same be in contravention of the laws of this, shall be binding here: Provided, however, that all such engagements made for a longer period than ten years, shall be reduced to that limit, to count from the day of the arrival of the person bound, in this Republic.

§1384. If any person lawfully bound to service, shall willfully absent himself from such service, without the leave of his master, any District Magistrate of the Republic, upon complaint made, under oath, by the master, or by any one on his behalf, may issue a warrant to apprehend such person and bring him before the said Magistrate; and if the complaint shall be maintained, the Magistrate shall order such offender to be restored to his master, and he shall be compelled to serve the remainder of the time for which he originally contracted.

§1385. If any such person shall refuse to serve according to the provisions of the last Section, or the terms of his contract, his master may apply to any District Magistrate, where he may reside, who shall be authorized by warrant or otherwise, to send for the person so refusing, and if such refusal be persisted in to commit such person to prison there to remain at hard labor until he will consent to serve according to law. And in case such person so bound as aforesaid, shall have returned to the service of such master in obedience to such order of such Magistrate, and shall again willfully absent himself from such service without the leave of his master, such District Magistrate may fine such offender for the first offense, not exceeding five dollars, and for the second offense, not exceeding ten dollars; and in default of payment thereof, such offender shall be imprisoned at hard labor until such fine is paid; and for every subsequent offense thereafter, the offender shall be imprisoned at hard labor not exceeding three months; and at the expiration of any such imprisonment such Magistrate shall order such offender to be restored to his master to serve for the remainder of such original term of service.

§1386. The Magistrate's warrant or order, mentioned in Section 1384, when directed to any officer or other person by name, shall authorize him to convey the offender to the place of residence of the master, although it may be in some other Island of the Republic.

§1387. All the costs incurred in any process against a servant, under either the 1384th or 1385th Sections, shall be paid the first instance by the complainant, and if the complainant shall be sustained, the master shall have judgment and execution thereof against the offending servant.

§1388. If any master shall be guilty of any cruelty, misusage, or violation of any of the terms of the contract, towards any person bound to service either under Sections 1382 or 1383 such person may make complaint to any District Magistrate, who shall, summon the parties before him, examine into, hear and determine the complaint, and in all such examinations the complainant shall be a competent witness; and if the complaint shall be sustained, such person shall be discharged from all obligations of service, and the master shall be fined in a sum not less than five, nor more than one hundred dollars, and in default of the payment thereof, be imprisoned at hard labor until the same is paid.

§1389. No contract of service made in pursuance of Sections 1382 or 1383 of this chapter, shall bind the servant after the death of his master: provided, however, that where servants shall be so bound by any company of individuals, the death of any one partner, or the change of partners, in such company, shall not operate to release such servant from the terms of his contract.

§1390. Nothing in this chapter contained shall be construed to destroy the right of civil action for damages, by the master or servant, for breach of contract.

#### NOTE TO CHAPTER 78.

§§1350-1351 are P. C. Ch. 78, §§1-2; C. L. §§1396-1397.  
 §1352 is 1888, Ch. 37, §4.  
 §§1353-1367 are P. C. Ch. 78, §§3-21; C. L. §1398-1416.  
 §§1368-1369 are S. L. 1880, Ch. 21; C. L. p. 456.  
 §1370 is S. L. 1878, Ch. 46, §1; C. L. p. 457.

§1371 is S. L. 1886, Ch. 30.

§§1372-1375 are S. L. 1878, Ch. 46, §§2-6; C. L. p. 458.

§1376 is S. L. 1884, Ch. 53.

§§1377-1378 are S. L. 1872, Ch. 31; C. L. p. 459.

§1379 is S. L. 1872, Ch. 31, amended S. L. 1882, Ch. 33; C. L. p. 459.

§1380 is S. L. 1876, Ch. 47; C. L. p. 460.

§1381 is S. L. 1878, Ch. 7; C. L. p. 460.

§§1382-1383 are P. C. Ch. 78, §§22-23; C. L. §§1417-1418.

§1384 is P. C. Ch. 78, §24; C. L. §1419, amended S. L. 1882, Ch. 28.

§1385 is S. L. 1892, Ch. 63.

§§1386-1387 are P. C. Ch. 78, §§26-27; C. L. §§1421-1422.

§1388 is P. C. Ch. 78, §28; C. L. §1423 amended, S. L. 1872, Ch. 24.

§§1389-1390 are P. C. Ch. 78, §§29-30; C. L. §§1424-1425.

Cases in Hawaiian Reports: *R. v. Greenwell*, 1 Haw. 85; *Re Lewers*, 3 Haw. 21; *Wood v. Hookina*, 3 Haw. 102; *Wood v. Afo*, 3 Haw. 448; *Unna v. Kelaula*, 3 Haw. 690; *Waihee v. Kalapu*, 3 Haw. 760; *Coolidge v. Puaaiki*, 3 Haw. 810; *Kaalaea v. Bolabola*, 3 Haw. 818; *Nott v. Kanahele*, 4 Haw. —; *Board of Immigration v. Entrella*, 5 Haw. 213; *Re Keli-koa*, 5 Haw. 281; *Rickard v. Couto*, 5 Haw. 512; *Re Gip Ah Chan*, 6 Haw. 25; *Nakamura v. Haolilio*, 6 Haw. 667; *Afong v. Kale*, 7 Haw. 595; *Hilo v. Mioshi*, 8 Haw. 204; *Re Notaries*, 8 Haw. 562; *Laupahoehoe Co. v. Kanaela*, 9 Haw. 469; *Weedon v. Waterhouse*, 10 Haw. 696.

## CHAPTER 79.

BUREAU OF PUBLIC INSTRUCTION.—PARENTAL AND FILIAL  
DUTIES.

## PART I.—ATTENDANCE.

§1391. If any child of school age shall persist in absenting himself from school, any District Magistrate shall, upon proper complaint being made by the school teacher, or any other officer or agent of the department, cause the father or the mother, guardian or other person having the charge of such child, to be summoned to appear before such Magistrate, and upon its being proved that the person responsible for the child had not used proper diligence to enforce the child's regular attendance at school, such responsible party shall be fined by the Magistrate in a sum not exceeding five dollars, and in default of payment thereof, such person shall be imprisoned at hard labor for a term not to exceed ten days. In case the child shall prove the offending party, the Magistrate shall send him to a reformatory or industrial school for a term not less than six months or more than two years, or otherwise sentence him to a fine not exceeding two dollars, or imprisonment for a term not exceeding five days. Provided however, that the provisions of this section shall not apply to any child not liable to compulsory attendance at school.

§1392. The teachers of all schools, either public or private, shall keep a correct register of the names, sex, age and nationality, as far as ascertainable, date of entering the school, and the places of residence of the children attending their respective schools, and no teacher of any school shall grant a release to any



child under fifteen years of age, who shall be registered as attending his school, for the purpose of attending another school, unless the consent and approval of the parents or guardians of such child shall be given in writing to the teacher, or unless authorized to grant such release by the school agent of the district for good reasons shown to his satisfaction. In every such case a certificate in writing shall be granted to the teacher setting forth the facts in the case.

The register shall be carefully preserved, and as often as the department shall direct, the register or a true copy thereof shall be filed in the office of the department.

§1393. No teacher of any school, either public or private, shall receive into his school any child under fifteen years of age, who shall have attended another school of the same class in the same district, unless such child shall produce to teacher of the school to be entered, a certificate of release signed by the teacher of the school last attended by the child. If such child apply to attend a school of higher grade, a certificate of proficiency shall be required or a lawful excuse for its absence.

Provided, that the children from one district desiring to enter a school in another district, may be received or admitted upon producing a certificate of release from the school last attended in such other district.

The teacher of any such school who shall violate any of the provisions of this or of the foregoing section shall, upon conviction thereof, before any District Magistrate, be subject to a fine not exceeding ten dollars for each offense.

## PART II.—INDUSTRIAL AND REFORMATORY SCHOOLS.

§1394. The Act entitled "An Act authorizing the Board of Education to establish an Industrial and Reformatory School, for the care and education of helpless and neglected children, as also for the reformation of juvenile offenders," approved De-

ember 30th, 1864, be, and the same is hereby repealed, from Section 1 to Section 10, inclusive.

§1395. The Board of Education is hereby authorized to continue the Industrial and Reformatory School established in March, A. D. 1865, at Keoneula, Kapalama, Oahu, under the Act of December 30th, 1864, authorizing the same; to be, as heretofore, conducted under the direction and supervision of the Board of Education.

§1396. It shall be lawful for the Board of Education to institute and establish industrial and reformatory schools in any part of the Republic, when the same shall be deemed necessary, and when funds shall be available by legislative appropriation, for that object. All such schools shall be conducted under the direction and supervision of the Board of Education.

§1397. The only object of the said industrial and reformatory schools shall be the detention, management, education, employment, reformation and maintenance of such children as shall be committed thereto, as orphans, vagrants, truants, living an idle or dissolute life, who shall be duly convicted of any crime or misdemeanor, who shall be surrendered to the Board of Education as guardians thereof, for the term of their minority, or who shall be received at such schools as hereinafter provided.

§1398. The District Magistrates are hereby authorized to commit all offenders duly convicted before them, under fifteen years of age, to said industrial and reformatory schools, in all cases where they shall deem such sentence to be more suitable than the punishment otherwise authorized by law.

§1399. The said District Magistrates, on the representation of any member of the Board of Education, its agents, the Attorney-General or his authorized deputy, the Marshal or his deputy, or the Sheriff or Deputy Sheriff of any Island, shall have power

to hear and determine any case, and to sentence for any term within their minority to some industrial and reformatory school, any child under fifteen years of age, who lives an idle or dissolute life, whose parents are dead, or if living, from drunkenness or other vices or causes, shall neglect to provide suitable employment for, or exercise salutary control over such child.

§1400. The Board of Education, or its agents, if authorized by the said Board, shall have power to accept from the parents or guardian of any child, the surrender of such child for the term of his or her minority, to be entered at some industrial and reformatory school; and all the rights of parents or guardians, to keep, control, educate, employ, indenture or discharge such child, shall vest solely in the Board of Education.

§1401. It shall be lawful for the Board of Education, in its discretion, to receive into such industrial and reformatory schools the children under fifteen years of age of parents, guardians or adoptive parents, who shall desire the same; and the said Board is hereby authorized to charge fees, or remit the same in special cases, for the children so admitted, as in the judgment of the said Board shall seem proper.

§1402. The principals of said schools shall receive and detain at said industrial and reformatory schools all children who shall be committed thereto, or placed therein, as provided in Sections 1398, 1399, 1400 and 1401, and they shall be charged with the detention and custody of all children so committed or admitted, and with the execution of all orders, as well as process of Court, respecting such children.

§1403. It shall be lawful for the Board of Education, or its agents, if authorized by said Board, to bind out as apprentices, with their consent, all children over ten years of age, as shall be committed or surrendered for their minority, and who shall

have been admitted at any industrial and reformatory school, to such useful trades, employments, or occupations as shall be suitable to their years and capacity, and as in the judgment of the said Board will tend to the future benefit and advantage of such children.

§1404. Whenever it can be found that apprenticeships cannot be obtained, or suitable employment be provided at any industrial and reformatory school, for children over fifteen years of age, who shall have been committed or surrendered thereto for their minority, or sentenced for a shorter time, for any crime or misdemeanor, the Board of Education, or its agents, if authorized by the said Board, shall have authority to put them out to labor to families, or other suitable persons, upon such terms and conditions as in the opinion of the said Board shall be deemed proper.

§1405. The Board of Education shall have power, for good reasons shown to its satisfaction, to discharge or temporarily release any child committed to or admitted at any industrial and reformatory school, who shall not have been bound out as an apprentice or adopted. And the District Magistrates shall also have power to discharge from such schools children committed from their respective districts, who shall not have been bound out as apprentices or adopted, if, upon the hearing of any application for the same, said Magistrate shall consider that such discharge is expedient. But it shall be incumbent on said District Magistrates, before granting any discharge that shall be applied for, to give thirty days' notice of the same in writing to the Board of Education.

§1406. Any person who shall secretly or illegally abduct, or who shall be accessory to the secret or illegal abduction of any child from any industrial and reformatory school, shall be fined not exceeding one hundred dollars, or imprisoned at hard labor not exceeding one year; and any District Magistrate shall

have jurisdiction of any case arising under this section within his district.

§1407. Any person who shall knowingly or intentionally entice away any child from any industrial and reformatory school, or who shall knowingly harbor or secrete any child who shall have been enticed away, or who shall have deserted from any such school, or who shall have left or forsaken his guardian or employer without permission, shall be fined not exceeding one hundred dollars, in the discretion of the District Magistrate having jurisdiction of the case, as in the last preceding section provided.

§1408. All commitments to industrial and reformatory schools shall be directed to the Board of Education, or its authorized agents in the respective districts, but the Marshal of the Republic or his deputies shall be charged by such commitments with the execution of all orders for the custody and safe keeping of the children committed to the said industrial and reformatory schools, until delivered over to the principal of the school to which such children shall have been committed, and shall defray all expenses attending the conveyance of such children to their place of destination, from the funds under his or their control, available for such purposes.

§1409. It shall be incumbent on the Marshal or any of his deputies to assist, as far as in their power lies, in the apprehension and recovery of deserters from any industrial and reformatory school, when requested to do so by the Board of Education, its agents, or the principal of any such school; and likewise to assist, as far as possible, in enforcing order and maintaining discipline therein, should circumstances at any time arise necessitating the exercise of such authority.

§1410. The Board of Education shall have full authority to prescribe rules and regulations, not in contrariety to the laws of

CC

the land, for the government, discipline and care of all industrial and reformatory schools, continued, established, or instituted under this Act.

§1411. The Board of Education shall cause to be kept in every industrial and reformatory school a journal, in which shall be regularly entered the reception, discharge, release, escape or death of each of the inmates, together with all the particulars relating to such as shall be apprenticed, adopted or put out to work. An exact account shall also be kept by the principal of each of the said schools, of all moneys and other avails received for work performed by the children, as well as of the expenditure of such moneys and avails as shall be authorized from time to time by the Board of Education.

§1412. Whenever it shall be found that the continued detention or custody of any inmate of any industrial and reformatory school at such school shall be subversive of the order and discipline of the school, or injurious in any way to the other inmates of the institution, it shall be lawful for any District Magistrate, on representation to that effect being made by any member of the Board of Education, its authorized agents, or the principal teacher of any such school, to hear and determine any such case, and if proved to his satisfaction, said Magistrate is hereby authorized, in the place of further detention or custody at such school, to order that such minor be imprisoned, with or without hard labor, at some public jail for any term not exceeding the unexpired residue of the time for which such inmate shall have been last committed to such industrial and reformatory school.

§1413. If at any time after the commitment or transfer, as in the foregoing section of this Act authorized, of any inmate of an industrial and reformatory school to a public jail, it shall be found that such minor by his conduct gives reasonable proof of reformation, or for other good reason that shall be made to appear, it shall be lawful for any District Magistrate, after receiv-

ing satisfactory evidence thereof, to order the discharge of such minor from jail, or to return him to the custody of the Board of Education at some industrial and reformatory school, whenever requested so to do by a member of the Board of Education, or by its authorized agents.

§1414. All costs incurred under the provisions of this Act shall be paid by the Board of Education out of any funds appropriated for industrial and reformatory schools.

### PART III.—THE CENSUS.

§1415. It shall be the duty of the Board of Education, every sixth year, counting from the year 1860, to make a complete census of the inhabitants of the Republic, to be laid before the President and Legislature for their consideration; every census shall comprise, in distinct columns, the number of inhabitants in each district, the number of each sex, and such other particulars as the Board of Education may direct, and shall show the increase or decrease of the population.

§1416. To enable the Board of Education to carry into execution the design of the last preceding section, relating to the census, it is hereby authorized to make, through its agents, all proper and necessary inquiries. And all persons are hereby required, under pain of a fine not to exceed fifty (\$50) dollars, to be imposed by any District Magistrate, to answer to the best of their knowledge all such questions as shall be propounded by the agents of the Board, relating to, or necessary for, the making of a complete census.

§1417. The necessary expenses of making any census shall be paid by the Minister of Finance, upon the order of the Board of Education, out of any moneys appropriated by the Legislature for that object.

## PART IV.—GENERAL PROVISIONS OF THE PARENTAL AND FILIAL DUTIES.

§1418. It shall be the duty of all children within the years of legal majority, to obey all the lawful and moral commands of their parents, respecting first, as most obligatory, those of the father, and next those of the mother; and, if adopted, as by law allowed, the lawful and moral commands of the parents by adoption; and, in default of natural or adopted parents, the lawful and moral commands of the guardians appointed according to law; and, in case of continued, willful and obstinate disobedience on the part of a child, it shall be lawful for any District Magistrate, upon complaint being made by any parent or guardian, to cause the said child to be arrested and brought before him; and should it appear to the said Magistrate that such child is guilty of continued, willful and obstinate disobedience, he shall sentence the said child to imprisonment at hard labor, for a term not exceeding ten days; provided, however, that no child under ten years of age shall be amenable to the provisions of this section.

§1419. Parents, that is to say, first the father and then the mother, or, in case they be both dead, guardians, legally appointed, shall have control over the actions, the conduct and the education of their children within the years of legal majority; they shall have the right, at all times, to recover possession of their children by habeas corpus, and to chastise them moderately for their good; and it shall be the duty of all parents and guardians to set a good example before their children; to provide, to the best of their ability, for their support and education; to see that they are instructed in a knowledge of the Christian religion; to use their best endeavors to keep them from idleness and vice of all kinds; and to inculcate upon them habits of industry, economy and loyalty; and it shall be lawful for any Judge of the Supreme Court, or of any Circuit Court of this Republic, on a complaint being laid before him against any



parent, that he or she is encouraging their children in ignorance and vice, to summon such parents before him; and, upon its being proved to his satisfaction, to bind out such child, within the years of legal majority, to some person of good moral character, to be well supported, trained to good habits, and taught at least the rudiments of knowledge.

NOTE TO CHAPTER 79.

§§1391-1393 are S. L. 1896, Act 57, §§33, 42 and 43.

§§1394-1411 are S. L. 1870, Ch. 41; C. L. p. 548.

§§1412-1414 are S. L. 1882, Ch. 30; C. L. p. 683.

§1415 is P. C. Ch. 79, §6.

§1416 is S. L. 1878, Ch. 17; C. L. p. 211.

§1417 is S. L. 1865, §43; C. L. p. 211.

§1418 is P. C. Ch. 79, §5.

§1419 is S. L. 1865, §40; C. L. p. 210.

P. C. Ch. 79, §§1-4 repealed, S. L. 1896, Act 57; §§8-9 repealed, S. L. 1896, Act 50.

Cases in Hawaiian Reports: Beckley v. Lucas, 8 Haw. 41.

## CHAPTER 80.

## OF HIGHWAYS AND BRIDGES.

§1420. Any Road Supervisor who shall fraudulently free any person from road labor, not exempted by law, or who shall not cause the persons liable to the road tax to work the full number of days and hours prescribed by law, shall on conviction thereof, before any District Magistrate, be fined five dollars for each such offense; and all such fines shall be expended as part of the road tax of such district.

§1421. The Road Supervisor shall have power to compel the attendance and labor of the people liable to road tax, to labor on the road anywhere within the district in which they reside, provided he shall remit one day's work for every five miles travelled by the people from their places of abode, Section 1420 notwithstanding.

§1422. The Road Supervisors, in case of refusal to work, or disorderly or mutinous conduct, on the part of any workman, shall have the power to authorize and require any Constable to apprehend the offender, and take him before any District Magistrate, who shall, unless good cause be shown to the contrary, sentence such offender to a fine not exceeding five dollars, or imprisonment at hard labor not more than five days.

§1423. It shall be the duty of every man liable to the road tax to appear punctually at the time appointed for work, with suitable implements, and to work diligently as directed by the Supervisor, otherwise he shall be subject to a fine not exceeding five dollars.

§1424. All fines imposed and paid under Sections 1422 and 1423 shall be paid over by the several District Magistrates to the Road Supervisor of the district, and shall be expended by him as part of the road tax of such district.

§1425. No cattle, horses, mules or asses, exceeding ten in number, shall be driven over any bridge of wood or iron in this Republic, of ten feet span or more, under the penalty of a fine of not less than one dollar nor more than ten dollars, recoverable against the driver or drivers of the same, by prosecution before any District Magistrate; provided, always, that in cases where no other passage is possible, the District Magistrate before whom such prosecution is had shall remit the fine.

§1426. No cart, wagon, dray, or carriage, drawn by oxen, horses, or mules, and no rider of any horse or mule shall pass over any wooden or iron bridge in this Republic, of ten feet span or more, at a pace faster than a walk, under a penalty of five dollars, recoverable against the driver of such cart, wagon, dray or carriage, or rider of such horse or mule, before any District Magistrate.

§1427. In the event that any damage is done to any bridge within this Republic, by reason of a violation of any of the provisions of this Act, the owner or owners, driver or drivers, rider or riders, of such cattle, horses, mules, asses, carts, wagons, drays, or carriages, shall be liable in damages by suit, at the instance of the Road Supervisor of the district, recoverable before any District Magistrate.

#### THE LAW OF THE ROAD.

§1428. Whenever any persons shall meet each other on any bridge, road, or other highway, travelling with carriages, wagons, carts or other vehicles, each person so meeting shall seasonably turn his horse, or other animal, or drive his carriage or other

vehicle, to the right of the middle of the travelled part of such road or bridge, when practicable; so that the respective carriages or other vehicles aforesaid may pass each other without interference.

§1429. When it is difficult or unsafe for persons traveling with any of the aforesaid carriages, or other vehicles, on account of their being heavily laden or otherwise, to turn or drive their carriages or other vehicles to the right of the middle of such travelled part, as aforesaid, any person thus prevented, when meeting with any other person travelling with any of the carriages or vehicles aforesaid, shall stop a reasonable time at a convenient part of the road, to enable such other person to pass by.

§1430. Whenever any person travelling with any carriage or vehicle as aforesaid, on any bridge, or road, shall overtake any other person with any such carriage or vehicle, either stationary or at some inconvenient place for passing by, or travelling at a slower rate, and shall request such other person to permit him to pass, it shall be the duty of the person so overtaken to turn or drive his carriage, or vehicle, to the right or left of the middle of the travelled part of said bridge or road, or to stop a reasonable time in some convenient place, for the other person to pass by.

§1431. No person shall permit his carriage or vehicle to travel or pass, on any such bridge or road, without a suitable driver or conductor; nor shall leave the same on any such bridge or road stationary, in such a situation as to obstruct other persons, travelling with any carriage or other vehicle.

§1432. Every person violating either of the foregoing provisions of the law of the road shall be fined, for each offense, not less than one, nor more than twenty-five dollars. And any person injured by any violation of the provisions aforesaid, shall

be entitled to recover damages, in an action to be commenced within six months after such injury.

§1433. Whoever digs up, cuts down, or otherwise maliciously injures or destroys any shade or ornamental trees on any public highway, unless the same is deemed an obstruction by the Minister of Interior, or those acting under his authority, or by other persons by law duly authorized, shall be deemed guilty of a misdemeanor.

§1434. Whoever maliciously removes or injures any mile board or mile stone, or guide board or guide posts, or any inscription on such, erected on any public highway, shall be deemed guilty of a misdemeanor.

§1435. Any person who shall violate any of the regulations or rules that may be promulgated by the Minister of Interior, under the provisions of Chapter 24 of the Civil Laws, shall be deemed guilty of a misdemeanor.

§1436. Any person convicted of a misdemeanor under the provisions of Sections 1433 to 1437, or Chapter 24 of the Civil Laws, shall be punished by a fine not exceeding one hundred dollars.

§1437. The several District Magistrates of the Republic shall have jurisdiction to try and determine all misdemeanors arising under Sections 1433 to 1437, or Chapter 24 of the Civil Laws, and all complaints for violation of any of the provisions of said Sections or Chapter, and to impose any of the penalties herein prescribed.

NOTE TO CHAPTER 80.

§§1420-1432 are P. C. Ch. 80, §§1-13.

§§1433-1437 are S. L. 1892, Ch. 47, §17, §23, §25, §26 and §27.

Cases in Hawaiian Reports: Cummins v. Sumner, 3 Haw. 170.

## CHAPTER 81.

## LANDING AND DRIVING CATTLE IN HONOLULU.

§1438. The Minister of the Interior may designate a wharf or other landing place, with sufficient depth of water to accommodate coasting vessels, at which all cattle brought into the harbor of Honolulu in coasting vessels shall be landed, and the wharf or other place so set apart shall be published, for at least three months, in the Hawaiian and English languages, in two newspapers published in Honolulu.

§1439. The Minister of the Interior is hereby authorized to purchase for the Hawaiian Government, and pay for the same out of the proceeds of sales of real estate, a suitable location for a wharf and road, to which all cattle brought into the harbor of Honolulu in coasting vessels shall be landed, and he shall establish reasonable charges for the use of such landing place.

§1440. Any person landing cattle from a coasting vessel at any wharf or other place in the harbor of Honolulu, other than that named and published by the Minister of the Interior, as provided in the first Section of this Chapter, shall be subject to a fine of not less than twenty-five dollars nor more than one hundred dollars for each offense; and the vessel from which cattle may be so landed shall be liable for the amount of the fine and costs.

§1441. All driving of cattle through or over the streets of the city of Honolulu, and the leading thoroughfares within one-quarter of a mile thereof, from the intersection of King and

Nuuanu streets, or upon any part of Nuuanu street, within one mile of such intersection, is hereby strictly prohibited, unless such cattle shall be sufficiently bound and controlled so as effectually to prevent all damage to the public, under a penalty of ten dollars for every head of such cattle so driven; the same to be recovered before the District Magistrate of Honolulu.

§1442. This chapter shall not be construed to prohibit the driving of cattle between the hours of eleven o'clock in the evening and eight o'clock in the morning, through such streets, and under such regulations as may be prescribed, from time to time, by the Minister of the Interior.

NOTE TO CHAPTER 81.

§§1438 to 1442 are P. C. Ch. 81, unaltered.

## CHAPTER 82.

## PRISONS.

§1443. The President, his Ministers, the Judges of the Supreme and Circuit Courts, members of the Legislature, of the Board of Education, and the diplomatic and consular agents of foreign nations, shall be allowed at suitable hours, freely to visit any prison.

§1444. None but official visitors named in the last preceding Section, shall be allowed to visit any prison or to have any verbal or written communication with the prisoners, unless with permission of the Marshal or the keeper of the prison: nor shall any visitor whatever deliver or receive from any of the prisoners, any letter or message, or supply any of them with any articles of any kind, except with the permission of and through the Marshal, or keeper of the prison, under a penalty of not less than five nor more than two hundred dollars.

## NOTE TO CHAPTER 82.

§§1443-1444 are P. C. Ch. 82, §§2-3.

P. C. Ch. 82, §1, was also P. C. Ch. 41, §11, and Civil Code §214. It was repealed as part of P. C. Ch. 41 by S. L. 1882, Ch. 44.



## CHAPTER 83.

## TRESPASS OF ANIMALS—BRANDS AND MARKS.

§1445. If any person shall maliciously and designedly open a gate-way, or break a fence, so as to allow any animal ingress or egress, so that it may commit a trespass, or shall maliciously and designedly drive or lead any animal into another locality where it may commit a trespass, he shall, for every such offense, be subject to a fine not more than one hundred dollars, or shall be imprisoned at hard labor not more than one year.

§1446. It shall be unlawful for any person to use any brand or mark that has been duly registered according to law, in the name of another, except by the consent of such registered owner, his executors, administrators or assigns. Any person violating the provisions of this Section, shall, upon conviction before any District Magistrate, be fined five dollars for each animal so branded or marked.

§1447. It shall be unlawful for any person or corporation to use any brand that has not been duly registered according to law. Any person, officer of a corporation or corporation using any brand that has not been duly registered according to law shall, upon conviction before any District Magistrate, be fined not less than one dollar nor more than five dollars for each animal so branded.

§1448. Any person who shall obliterate any brand or mark, on any animal, by placing another brand or mark over the same, or otherwise, although without a felonious intent, shall be subject

to a fine not exceeding twenty dollars, in the discretion of the Court, for every brand or mark so obliterated.

NOTE TO CHAPTER 83.

§§1445-1446 are S. L. 1888, Ch. 35, §18 and §20; repealing P. C. Ch. 83, §1.

§1447 is P. G. Act 39.

§1448 is P. C. Ch. 83, §2.

## CHAPTER 84.

## FISHERIES.

§1449. All fishing grounds appertaining to any Government land, or otherwise belonging to the Government, excepting only ponds, shall be, and are hereby forever granted to the people, for the free and equal use of all persons; provided, however, that, for the protection of such fishing grounds, the Minister of the Interior may tabu the taking of fish thereon, at certain seasons of the year.

§1450. The Minister of the Interior shall give public notice of any such tabu imposed by him; and no such tabu shall be in force until such notice has been given. Every person who shall violate such tabu shall be punished by a fine not exceeding fifteen dollars, and the value of the fish taken.

§1451. No person residing without the Republic shall take any fish within the harbors, streams, reefs, or other waters of the same, for the purpose of carrying them for sale, or otherwise, to any place without the Republic, under penalty of a fine not exceeding two hundred dollars, in the discretion of the Court.

§1452. The fishing grounds from the reefs, and where there happen to be no reefs, from the distance of one geographical mile seaward to the beach at low water mark, shall, in law, be considered the private property of the konohikis, whose lands, by ancient regulation, belong to the same; in the possession of which private fisheries, the said konohikis shall not be molested, except to the extent of the reservations and prohibitions hereinafter set forth.

§1453. The konohikis shall be considered in law to hold said private fisheries for the equal use of themselves and of the tenants on their respective lands, and the tenants shall be at liberty to take from such fisheries, either for their own use, or for sale or exportation, but subject to the restrictions imposed by law, all fish, sea-weed, shell-fish and other edible products of said fisheries.

§1454. The konohikis shall have power each year to set apart for themselves one given species or variety of fish natural to their respective fisheries, giving public notice, by *viva voce* proclamation, and by at least three written or printed notices posted in conspicuous places on the land, to their tenants and others residing on their lands, signifying the kind and description of fish which they have chosen to be set apart for themselves.

§1455. The specific fish so set apart shall be exclusively for the use of the konohiki, if caught within the bounds of his fishery, and neither his tenants nor others shall be at liberty to appropriate such reserved fish to their private use, but when caught, such reserved fish shall be the property of the konohiki, for which he shall be at liberty to sue and recover the value from any person appropriating the same.

§1456. The konohikis shall not have power to lay any tax, or to impose any other restriction, upon their tenants, regarding the private fisheries, than is hereinbefore prescribed, neither shall any such further restriction be valid.

§1457. It shall be competent to the konohikis, on consultation with the tenants of their lands, in lieu of setting apart some particular fish to their exclusive use, as hereinbefore allowed, to prohibit during certain months in the year, all fishing upon their fisheries; and, during the fishing season, to exact of each fisherman among the tenants, one-third part of all the fish taken upon

their private fishing grounds. In every such case it shall be incumbent on the konohikis to give the notice prescribed in Section 1454.

§1458. No person who has bought, or who may hereafter buy, any Government land, or obtain land by lease or other title from any party, has or shall have any greater right than any other person, resident in this Republic, over any fishing ground not included in his title, although adjacent to said land.

§1459. If that species of fish which has been tabooed by any konohiki, shall go on to the grounds which have been, or may be, given to the people, such fish shall not be tabooed thereon. It shall be tabooed only when caught within the bounds of the konohiki's private fishery. Nor shall it be lawful for a konohiki to taboo more than one kind of fish upon any fishing grounds which lie adjacent to each other.

§1460. Every konohiki or other person who shall willfully deprive another of any of his legal rights to fish on any fishing ground, which now is, or may become, free to the use of the people, or who shall willfully exact from another any portion of the fish caught on any public fishing ground, or who shall willfully exact of another, for the use of any private fishery, a greater amount of fish than by law he is entitled to receive as his share, and any tenant or other person who shall willfully deprive any konohiki of his fishing rights, by appropriating to himself the tabooed fish of said konohiki, or otherwise, shall be punished by a fine not exceeding one hundred dollars for every such offense, in the discretion of the Court, and in default of the payment of such fine be imprisoned at hard labor not exceeding three months.

§1461. The several District Magistrates shall have power to try and punish all offenses against the provisions of the last preceding section, committed in their respective districts.

DD

## USE OF EXPLOSIVES.

§1462. No person shall use giant powder, or any other explosive substance in taking fish within or upon any harbors, streams, reefs or waters within the jurisdiction of this Republic.

§1463. The possession by fishermen, fish venders, or persons in the habit of fishing, of fish killed by giant powder or other explosive substance, shall be *prima facie* evidence that the person in whose possession such fish were found used giant powder or some other explosive substance in taking such fish, contrary to the provisions of this Act.

§1464. Whosoever violates the provisions of this Act shall be punished by a fine not exceeding one hundred dollars nor less than twenty-five dollars, or by imprisonment at hard labor not exceeding six months, or both in the discretion of the Court.

§1465. The several District Magistrates shall have jurisdiction in all cases under this Act.

## YOUNG FISH.

§1466. It shall not be lawful for any person to take, catch or destroy the young of the fish known as mullet and the awa under four inches in length in any of the bays, harbors, waters or streams of this Republic. Provided, however, that nothing in this Act shall prevent the taking of the fish hereinabove prohibited for the purpose of stocking ponds.

§1467. It shall not be lawful for any person to sell or offer for sale or have in his possession, except alive, any of the young fish mentioned in Section 1466.

§1468. Any person violating the provisions of this Act shall, upon conviction before any District Magistrate, be punished by

a fine of not less than twenty nor more than two hundred dollars, or by imprisonment at hard labor for not less than ten nor more than ninety days, or both such fine and imprisonment, in the discretion of the Court. Provided, nevertheless, that no such fine shall be imposed upon any person who fishing for other fish accidentally takes or catches no more than forty of the young fish mentioned in Section 1466.

## NOTE TO CHAPTER 84.

§§1449-1451 are P. C. Ch. 84, §§1-3.

§1452 is C. L. §387.

§1453 is S. L. 1892, Ch. 18.

• §§1454-1461 are C. L. §§389-396.

§1462 is S. L. 1872, Ch. 2, §1; C. L. p. 552.

§1463 is S. L. 1888, Ch. 30.

§1464 is S. L. 1892, Ch. 10.

§1465 is S. L. 1872, Ch. 2, §3; C. L. p. 552.

§§1466-1468 are S. L. 1888, Ch. 58.

Cases in Hawaiian Reports: *Haalekea v. Montgomery*, 2 Haw. 62; *Oui v. Meek*, 2 Haw. 87; *Hatton v. Piopio*, 6 Haw. 334; *Shipman v. Commissioners*, 6 Haw. 353; *Halstead v. Gay*, 7 Haw. 589.

## CHAPTER 85.

## BIRDS AND GAME.

## PART I.—PROTECTION OF BIRDS AND GAME.

WHEREAS, great damage is caused yearly in the Republic of Hawaii, during the rainy season, by the ravages of caterpillars, cutworms, and other destructive grubs, to the various growing crops, such as wheat, corn and tobacco, and to the pasturage;

AND, WHEREAS, by a bountiful dispensation of Providence, the birds known here as the kolea, or plover, and the akeeke, or lesser pied plover, and the kukuluao, or long-legged plover, annually migrate to this Republic during the winter months, and destroy vast numbers of the said destructive larvæ by feeding on them;

AND, WHEREAS, insectivorous birds have been brought from foreign countries, with a view to their being propagated here; therefore,

§1469. Any person who shall, from the first day of August to the last day of December inclusive of each year, and from the first day of January to the last day of February inclusive of each year, kill or destroy by shooting, snaring or otherwise, any one of the above specified birds, shall, on conviction thereof before any District Magistrate, be fined in the penal sum of one dollar for each offense, to remain in custody until such fine be paid.

§1470. Any person who shall, from the first day of August to the last day of December inclusive of each year, and from the



first day of January to the last day of February inclusive of each year, sell, or offer for sale, any one of the before named birds, shall, upon conviction thereof before any District Magistrate, be fined in the penal sum of one dollar for each offense, to remain in custody until such fine be paid.

§1471. Any person who shall shoot, snare or otherwise destroy any bird brought from a foreign country for the purpose of propagating its species within this Republic, or any of the progeny of such imported bird; or who shall disturb the eggs and nests of such birds, shall, on conviction before any District Magistrate, be fined not less than ten dollars nor more than twenty dollars for each offense, and in default of payment be imprisoned until such fine is paid.

§1472. Whoever shall sell, or offer for sale at any time, any one of the birds mentioned in Section 1471, shall, on conviction before any District Magistrate, be fined in the sum of ten dollars, and in default of payment, be imprisoned until such fine is paid.

WHEREAS, the imported bird called the mynah has increased, and has become an intolerable nuisance to the agriculturist and fruit grower, and its slaughter is yet restrained by law; therefore,

*Be it Enacted, etc.*

§1473. The restrictions imposed by Section 1471 upon the killing or destroying of imported foreign birds is hereby removed and abolished as to the bird called the mynah bird.

§1474. Nothing herein contained shall be held to repeal or abolish said Section 1471 as to any bird or animal, excepting the mynah bird.

§1475. It shall be unlawful to take, kill or destroy any migratory Wild Duck, Plover, Snipe, Turnstone, Curlew, stilt

or Mud Hen, between the first day of May and the fifteenth day of September.

To take, kill or destroy any Native Wild Duck, Hawaiian Goose, between the first day of February and the fifteenth day of September;

To take, kill or destroy any Quail or Pheasant, between the first day of March and the fifteenth day of September;

To take, kill or destroy any Wild Dove or Wild Pigeon, between the first day of February and the first day of July;

To take, gather or destroy the eggs of any Wild Duck, Mud Hen, Pheasant, Dove, Pigeon or Quail at any time. To buy, sell or offer for sale, transport or have in possession any of said game at any time when it is unlawful to kill the same.

§1476. Any person convicted before a District Magistrate for violating any of the provisions of Section 1475, shall be fined not less than Ten Dollars (\$10.00) nor more than Fifty Dollars (\$50.00).

§1477. Nothing in this Chapter shall be construed as authorizing the killing, destroying, or ensnaring of any birds already imported, or that may hereafter be imported, for the purposes set forth in the above mentioned Chapter.

§1478. All Turkeys, Pheasants, Quail, Peafowl, Geese or Chickens running wild and at large on lands in this Republic shall belong to and be the property of the owner or owners of such lands.

§1479. No person shall shoot or otherwise destroy any animal *Feræ Naturæ*, which shall have been introduced into this Republic within ten years, nor the progeny of such animals, under a penalty of not more than fifty dollars for each offense.

§1480. Nothing in this Chapter shall be construed to prohibit the destruction of such birds or animals as shall be proved to be common nuisances.

PART II.—SHOOTING ON PRIVATE GROUNDS.

§1481. It shall not be lawful for any person or persons to enter upon any land belonging to or occupied by another, for the purpose of hunting with dogs, or to shoot, kill, take or destroy any kind of game without first having obtained permission from the owner or occupier of such land.

§1482. Any person who shall violate the provisions of Section 1481 shall be deemed guilty of a misdemeanor, and shall be punished upon conviction by a fine of not less than five dollars nor more than twenty-five dollars; provided, however, that no prosecution shall be had under the provisions of this Section, except upon the sworn complaint of the owner or occupier of such land.

PART III.—RABBITS AND MONGOOSE.

§1483. The keeping and breeding of Rabbits in the various Islands of the Republic of Hawaii is hereby prohibited.

§1484. Any person who shall keep or shall maintain for breeding any rabbits in any of the Islands of the Republic of Hawaii is guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not exceeding one hundred dollars for the first offense, and upon conviction thereof a second time shall be punished by a fine not exceeding one hundred dollars and imprisonment at hard labor not exceeding two months.

§1485. Any police officer or other officer of the peace is hereby authorized to destroy any rabbit found in this Republic and no officer destroying any rabbits shall be liable for any damages

for such destruction to any person claiming the ownership of such animals, provided that no officer shall enter in any inhabited inclosure for the purpose of taking or destroying any rabbits without authority of law under a warrant duly issued.

§1486. This Act shall not apply to any persons raising rabbits when said rabbits are kept in a confined state and only intended or kept as pet animals.

§1487. From and after the passage of this Act it shall not be lawful for any person, corporation or association of persons to introduce, keep or breed any mongoose into or upon the Hawaiian Islands.

Any person, corporation or association of persons who shall violate the provisions of this Section shall be deemed guilty of a misdemeanor, and upon conviction thereof before any District Court shall be fined not less than two hundred and fifty nor more than one thousand dollars for each mongoose introduced, kept or bred contrary to the terms of this Section.

§1488. For the purpose of exterminating the mongoose already upon the Island of Oahu, there shall be and hereby is set apart from any funds in the Treasury, not otherwise disposed of, the sum of one thousand dollars, which shall be expended by the Minister of the Interior in the payment of a bounty of not to exceed twenty-five cents for each mongoose on the Island of Oahu. The Minister of the Interior is hereby authorized to fix and from time to time change within the limit above set forth, the amount of such bounty per head, and shall make such rules for regulating the payment of such bounty as in his discretion may seem necessary.

§1489. It shall be lawful for any person to kill and exterminate mongoose on any Island of this Republic.

## NOTE TO CHAPTER 85.

- §§1469-1470 are P. C. Ch. 85, §§1-2.  
§1471 is S. L. 1870, Ch. 13; C. L. p. 536, repealing P. C. Ch. 85, §5.  
§1472 is P. C. Ch. 85, §4.  
§§1473-1474 are S. L. 1892, Ch. 41.  
§§1475-1476 are S. L. 1895, Act 4.  
§1477 is P. C. Ch. 85, §6.  
§1478 is S. L. 1884, Ch. 3.  
§1479 is S. L. 1870, Ch. 13; C. L. p. 536.  
§1480 is P. C. Ch. 85, §8.  
§§1481-1482 are S. L. 1892, Ch. 77.  
§§1483-1486 are S. L. 1890, Ch. 61.  
§§1487-1489 are S. L. 1892, Ch. 48.

## CHAPTER 86.

## ELECTIONS.

§1490. Offenses against the election laws and against the rules and regulations concerning the administering of oaths and the holding of elections, promulgated by the President, are divided into two classes, viz.: "Election Frauds" and "Misdemeanors," as hereinafter defined.

## ELECTION FRAUDS.

§1491. The following persons shall be deemed guilty of an election fraud:

1. Every person who shall directly or indirectly, personally or through another, give, procure or lend, or agree or offer to give, procure or lend, or who shall endeavor to procure, any money or office or place of employment of valuable consideration to or for any elector, or to or for any person for an elector, or to or for any person in order to induce any elector to vote or refrain from voting, or to vote or refrain from voting for any particular person or party, or who shall do any such act on account of any person having voted or refrained from voting for any particular person at any election.

2. Every person who shall directly or indirectly, personally or through another, make any such gift, loan, offer, promise, procurement or agreement as aforesaid, to any person, except to such assistants as are permitted by law, or by the rules and regulations issued by the President in accordance with the Constitution, in order to induce such person to procure or endeavor to

procure the election of any person to the Legislature; or to procure the vote of any elector at any election.

3. Every person who shall advance or pay, or cause to be paid, any money to, or to the use of, any other person, with the intent that such money, or any part thereof, shall be expended in bribery at any election, or for any purpose connected with or incidental to any election other than the objects and purposes for which money is by law or the said rules and regulations allowed to be expended, excepting only reasonable expenses for conveying voters to the polling places on election days; or who shall knowingly pay or cause to be paid any money to any person in the discharge or repayment of any money wholly or partly expended in bribery at any election, or for any purpose connected with or incidental to any election, other than the objects and purposes for which money is by law or the said rules and regulations allowed to be expended.

4. Every elector who shall, before, during or after any election, directly or indirectly, personally or through another, receive, agree or contract for any money, gift, loan or valuable consideration, office, place or employment for himself or any other person, for voting or agreeing to vote, or for refraining to vote or agreeing to refrain from voting, or for voting or refraining to vote for any particular person or party.

5. Every person who shall at any election, personally or through another, or by any ways or means on his behalf, directly or indirectly, give or provide, or cause to be given or provided, or shall be accessory to the giving or providing, or shall pay wholly or in part any expenses incurred for any meat, drink, entertainment or provision to or for any person in order to be elected, or for being elected, or for procuring the election of any candidate, or for the purpose of influencing such person or any other person to vote or refrain from voting; or for voting or refraining from voting for any particular person or party, at

such election, or on account of such person having voted or refrained from voting, or voted or refrained from voting for any particular person or party.

6. Every person who shall directly or indirectly, personally or through another, make use of, or threaten to make use of, any force, violence or restraint; or inflict or threaten to inflict any injury, damage or loss in any manner, or in any way practice intimidation upon or against any person in order to induce or compel such person to vote or refrain from voting, or to vote or refrain from voting for any particular person or party, at any election, or on account of such person having voted or refrained from voting, or voted or refrained from voting for any particular person or party; or who shall by abduction, distress or any device or contrivance impede, prevent or otherwise interfere with the free exercise of the elective franchise.

7. Every person who, at any election, votes or attempts to vote in the name of any other person, living or dead, or in some fictitious name, or who, having once voted, votes or attempts to vote again, or knowingly gives or attempts to give more than one ballot for the same office at one time of voting.

8. Every person who, before or during an election, knowingly publishes a false statement of the withdrawal of any candidate at such election.

9. Every person who induces or procures any person to withdraw from being a candidate at an election in consideration of any payment or gift, or valuable consideration; or of any threat; and every candidate who withdraws from being a candidate in pursuance of such inducement or procurement.

10. Every public officer by law or by said rules and regulations required to do or perform any act or thing with reference to any of the provisions in any law concerning elections or in said rules and regulations contained, who shall willfully fail, neglect or refuse to do or perform the same, or who shall willfully



perform it in such a way as to hinder the objects thereof, or who shall be guilty of any willful violation of any of the provisions thereof.

## PUNISHMENT FOR ELECTION FRAUDS.

§1492. Every person found guilty of an Election Fraud shall be punished by a fine of not less than one hundred dollars or exceeding one thousand dollars, or by imprisonment at hard labor for any term not less than ten days or exceeding two years, or by both such fine and imprisonment at the discretion of the Court.

Besides such punishment, such person shall be disqualified from voting and from holding any office under the Government, and from being elected to or occupying a seat in the Legislature, for six years from the date of such conviction.

If the person so convicted shall hold any office, either elective or appointive, at the time of such conviction, such office shall at once and without mention in such sentence, or other proceeding be vacated by such conviction. The Judge or Magistrate before whom such conviction is had shall immediately transmit to the Minister of the Interior the name of such person, the offense of which he has been convicted and the sentence of the Court.

## MISDEMEANORS.

§1493. The following persons shall be guilty of a misdemeanor:

1. Every person, except such assistants as are by law or by said rules and regulations specifically authorized to be employed, who shall, for the purpose of promoting or preventing the election of any candidate at any election, be engaged or employed for payment or promise of payment, or for any valuable consideration, to act as agent, clerk or messenger, or in any other capacity.

2. Every person furnishing, hiring, or using any premises or portion thereof licensed to sell beer, wines or spirits, as a committee room for the purpose of promoting the election of any candidate at any election.

3. Every person who shall be disorderly or create a disturbance whereby any meeting of the Board of Registration of voters or of the Inspectors of Election during an election shall be disturbed or interfered with; or whereby any person who intends to be lawfully present at any such meeting or election is prevented from attending; or who shall cause any disturbance at any election; and every person assisting or aiding or abetting any such disturbance.

4. Any candidate who fails or neglect to furnish the list of agents prescribed in said rules and regulations.

5. Every person who shall, either in person or through another, in any manner break up or prevent, or endeavor to break up or prevent, the holding of any meeting of the Board of Registration of voters, or in any manner break up or prevent, or endeavor to break up or prevent, the holding of any election.

6. Every person who, being a candidate for election, or an agent of any such candidate, or a member of any committee acting for or on behalf of any such candidate, shall fail to file the statement of expenses or of lack of expenses, as required in said rules and regulations.

7. Every person who shall willfully violate or fail to obey any of the provisions of law or of said rules and regulations, punishment for which is not otherwise herein specifically provided for.

8. Any person who shall willfully tear down, or destroy, or deface any election proclamation or any poster, or notice, or list of votes, or card of instructions, or specimen ballot, issued or posted by authority of law.

## PUNISHMENT FOR MISDEMEANORS.

§1494. Any person convicted of a misdemeanor under the provisions hereof shall be punished by a fine of not more than five hundred dollars, or by imprisonment at hard labor for not more than six months, or by both such fine and imprisonment, in the discretion of the Court.

## JURISDICTION.

§1495. Jurisdiction is hereby conferred upon District Magistrates and Circuit Judges to issue warrants and hear and determine all offenses arising hereunder, subject to the usual right of appeal.

Any person in any way violating any of the provisions hereof may also be prosecuted for the violation of any other then existing law, rule or regulation.

## NOTE TO CHAPTER 86.

§§1490-1495 are L. R. Act. 8, §§1-6.  
P. C. Ch. 86 repealed, S. L. 1888, Ch. 76.

## CHAPTER 87.

## TAXES.

§1496. Any person who shall knowingly and willfully make and deliver any false return or valuation of property, or make any false answer in relation to his property or property in his possession or control, for the purpose of evading the assessment thereof, or by any falsehood, willful neglect, fraud, act or contrivance whatsoever used or practiced, evade or attempt to evade assessment of his property or of property concerning which such person is required to make a statement, list or return for assessment, shall be deemed guilty of a misdemeanor.

§1497. All persons willfully aiding, abetting or assisting in any manner whatsoever any person to commit any of the foregoing acts or misdemeanors, shall likewise be deemed guilty of a misdemeanor.

§1498. All Assessors and Deputy Assessors and all Police officers and Constables on whom duties are imposed under the provisions of Chapter 60 of the Civil Laws, who shall willfully fail or refuse or neglect to faithfully perform any duty or duties of him required by the provisions of said chapter shall be deemed guilty of a misdemeanor.

§1499. Any person convicted of any misdemeanor under the provisions of this chapter shall be punished by fine of not more than five hundred dollars.

§1500. The several District Magistrates in the Republic shall have jurisdiction to try and determine misdemeanors arising under this chapter.

## NOTE TO CHAPTER 87

§§1496-1500 are S. L. 1896, Act 51, §§88-92.  
P. C. Ch. 87 repealed, S. L. 1882, Ch. 43; C. L. p. 117.

## CHAPTER 88.

## DEADLY POISONS.

§1501. No person shall sell or deliver any deadly poison, or any wooden vessel or container which shall have contained any deadly poison, except for scientific, medicinal or mechanical purposes, nor to any person not known to the vendor to be careful and well disposed. Provided that sales may be made to a person not known to the vendor, if some responsible person known to the vendor, will certify in writing that the person desiring to purchase may safely be entrusted with the same, but in all cases the vendor shall require the purchaser to disclose the intended use of such poison, vessel or container, as the case may be.

§1502. Every person who shall sell or deliver any deadly poison, shall keep a book in which shall be recorded the name and quantity of the poison sold or delivered, the person to whom it was sold or delivered, and whether such person was known to the vendor, and if not, the name of the responsible person upon whose recommendation the same was sold; and the certificate of such person shall be preserved. The said book of records shall at all times be open to the inspection of the Minister of the Interior or his agent.

§1503. The book required to be kept by Section 1502 shall contain a record of the sale of any vessel or container which shall have contained a deadly poison in like manner as is required with respect to the sale or delivery of the poison itself.

§1504. The box, phial, or other package in which any deadly poisons shall be sold or delivered, shall bear a label con-

EE

taining the word "Poison," in large letters, both in the English and Hawaiian languages, together with some emblematic device, to be approved by the Minister of the Interior, which shall indicate the dangerous character of the article.

§1505. Every licensed physician, druggist, or apothecary, who shall compound, sell, or deliver any prescription containing any poisonous drug, or substance deleterious to human life, to be used as medicine, shall enter upon his books said prescription written out in full, with the date thereof, with his own name appended thereto, or the name of the physician who prescribed the same, and the person to whom the same was delivered; and no such prescription shall be compounded, sold or delivered, unless the name of the person compounding, selling, or delivering the same, or the name of the physician prescribing the same, be appended to the prescription in full, and every such prescription shall be preserved; and said books and prescriptions shall be subject at all times to the inspection of the Minister of the Interior or his agent.

§1506. Any person violating the provisions of this chapter shall forfeit a sum not exceeding one thousand dollars for each offense.

#### NOTE TO CHAPTER 88.

§1501 is S. L. 1872, Ch. 16; C. L. p. 554.

§1502 is P. C. Ch. 88, §2.

§1503 is S. L. 1872, Ch. 16; C. L. p. 554.

§§1504-1506 are P. C. Ch. 88, §§3-5.

Cases in Hawaiian Reports: King v. Buffon, 3 Haw. 462; Rex v. Young Tang, 7 Haw. 53.

## CHAPTER 89.

## EXPLOSIVES.

## PART I.—LIQUID EXPLOSIVES.

§1507. No person shall receive, keep or store or cause to be received, kept or stored, or aid or assist any person in receiving, keeping or storing, or have at any one time on any premises owned, leased or occupied by him, except the storehouse provided therefor by the Government, more than one case of naphtha and one case of benzole, nor more than ten cases of petroleum, kerosene oil, or any oil of which the component part is petroleum, naphtha, or spirits of turpentine.

§1508. The importation into this Republic of nitro-glycerine, and all other analogous liquid explosives or substances, is absolutely prohibited under the penalties hereinafter prescribed for each and every violation of the provisions of this chapter. And in the event that any nitro-glycerine, or any other analogous liquid explosives or substances shall be brought into this Republic in any vessel or vessels, the same shall be subject to seizure and condemnation.

§1509. Any person keeping, storing or having benzole, petroleum, kerosene oil, or any oils, of which the component part is petroleum, naphtha or spirits of turpentine, in any one place except the storehouse provided by Government therefor, in the quantities, as provided in this chapter, shall keep the same in air-tight metallic vessels, which vessel or vessels shall be marked with the words benzole, petroleum, kerosene oil, or the name of the oil or oils of which the component part is petroleum,

naphtha or spirits of turpentine, in plain Roman letters, and shall be kept at all times conspicuously in view near the entrance of the premises where kept, and convenient for removal therefrom.

§1510. It shall not be lawful for any person or persons to import into this Republic, or sell within this Republic, benzole, petroleum, kerosene oil, or any oils of which the component part is naphtha or gasoline, which gives off an inflammable vapor at a temperature of less than one hundred degrees Fahrenheit; and whoever shall import, sell, give or furnish, to any person in this Republic, benzole, petroleum, kerosene oil, or any oils of which the component parts is naphtha or gasoline, which gives off an inflammable vapor at a temperature of less than one hundred degree Fahrenheit, shall be deemed guilty of a misdemeanor, and on conviction before a District Magistrate shall be punished by a fine not less than fifty dollars nor more than five hundred dollars, or by imprisonment at hard labor not more than one year, or both fine and imprisonment, in the discretion of the Court.

§1511. No person shall convey, or cause to be conveyed, or assist in conveying in any vehicle, boat or vessel, any benzole, petroleum, kerosene oil, or any oil, of which the component part is petroleum, naphtha, or spirits of turpentine, unless the same shall be securely packed in close metallic packages, nor unless such packages shall be securely covered while in such vehicle, boat or vessel, and when transported on any boat or vessel, shall be carried on the deck of such boat or vessel.

§1512. No person shall discharge benzole, petroleum, kerosene oil, or any oils, the component part of which is petroleum, naphtha, or spirits of turpentine from any vessel, except from ship's side or tackles, nor before the vessel shall be hauled up to the wharf. And all benzole, petroleum, kerosene oil, and all oils, the component part of which is petroleum, naphtha or spirits



of turpentine, landed or placed on any wharf, or deposited on any sidewalk in the city of Honolulu, Lahaina, or Hilo, for forwarding or shipment, shall be forwarded or shipped immediately after it shall be so landed or placed.

§1513. The Marshal of the Hawaiian Islands, and his Deputies, and the Sheriffs of the different Islands, and their Deputies, shall take possession of and safely store in the storehouses provided for such purpose, all benzole, petroleum, kerosene oil, and all oils, the component part of which is petroleum, naphtha or spirits of turpentine, that may be landed, stored, placed or deposited in violation of any of the provisions of the preceding Sections of this chapter and shall keep the same until all expenses incurred by them in removing and storing the same shall have been refunded or repaid to them. But the acts of the said officers in relation thereto shall not relieve any person from any penalty theretofore incurred.

§1514. The Chief Engineer, the Assistant Engineers, and the Secretary of the Fire Department and Fire Wardens of the city of Honolulu, and the Marshal of the Hawaiian Islands, the Sheriffs of the different Islands, and the Police throughout the Islands, are directed to see that the provisions of this chapter are enforced, and to make complaints to the District Magistrates for the violation of the provisions thereof.

§1515. Any person or persons violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor, and on conviction before a District Magistrate shall be punished by a fine not less than fifty dollars nor more than five hundred dollars, or by imprisonment at hard labor not more than three months, or by both fine and imprisonment, in the discretion of the Court.

§1516. The Minister of the Interior is hereby empowered and fully authorized to make such rules and regulations in relation to the keeping on the premises of any person, and the storing

of any explosive substances other than those known by the name of gunpowder, and not hereinbefore particularly mentioned in this chapter, as he shall deem advisable for the protection of life and property.

PART II.—KEROSENE.

§1517. It shall be unlawful, except as hereinafter provided, to sell, offer for sale, give, or in any way furnish or dispose of any kerosene oil for illuminating or any other purpose, in this Republic, which, after being inspected and tested in the most approved manner and with the most approved appliances shall ignite or evaporate an inflammable vapor at any temperature below one hundred and fifteen degrees Fahrenheit, but it shall be lawful to sell and dispose of any kerosene oil which bears a test of one hundred and fifteen degrees Fahrenheit or more.

§1518. Immediately upon the taking effect of this Act the Minister of Finance shall appoint a skilled and suitable person or persons not interested in importing, dealing in, selling or furnishing kerosene oil, as Government Inspectors of Kerosene Oil; and shall provide the most approved instruments and apparatus necessary for testing oils; and the Inspectors shall keep a true and accurate record of all oils inspected by them, which shall contain the dates of inspections, the quantities tested, the names of the persons for whom inspected and the names of the vessels by which such oils were imported; and also the trade mark of such oil and the degree at which the inflammable vapor ignited, and such records shall be open to the examination of any and all persons. And the Inspectors shall annually make and deliver to the Minister of Finance true and accurate reports of the inspections during the preceding year.

§1519. The Inspector at, or nearest to, any port of this Republic shall inspect and test all kerosene oil as soon as landed by making not less than two or more than ten tests of any one

importation of oil by one vessel and of one mark; and any Inspector shall upon the request of the Marshal of the Republic or any Sheriff, inspect and test in like manner any oil stored in the Government storehouse or storehouses in the Republic set aside for that purpose at any time after importation and before removal from such place of storage. If upon such inspection and test the oil meets the requirements herein specified, the Inspector shall so certify to the owner or his agent or to the importer of the oil, but all oil which will not stand or be equal to the test herein provided shall be rejected.

§1520. Any test of any lot of oil disputed may be submitted to the decision of a board of arbitrators, to consist of the Inspector, some one chosen by the contestant and a third to be chosen by the two so constituted. And the board shall procure samples and a majority may make an award. The costs of the arbitration to be borne by the contestant if the Inspector's test be approved, otherwise to be borne by the Government.

§1521. The Minister of Finance is hereby authorized to make and issue a scale of fees for testing such oil. All fees and expenses incurred in testing such oil so imported shall be paid by the importer or consignee thereof.

§1522. All kerosene oil, not equal to the test herein provided shall be at once exported by the owner, his agent or the importer, and in case of any neglect or unreasonable delay in so doing the Inspector shall seize and deliver the same to the Collector-General of Customs.

§1523. All kerosene oil imported into this Republic shall immediately after being landed be delivered at and stored in the Government Kerosene Storehouse or in storehouses set aside for that purpose; provided, that lots may be transferred directly from the wharf where landed to any vessel, railroad station or other place or premises authorized to receive the same, by fur-

nishing the Inspector's certificate of the proper test of the same to the Customs guard or official in charge of the vessel of importation. And provided, further, that lots of not more than ten cases or one hundred gallons may be withdrawn from such storehouses and kept for consumption or sale on premises with an area of at least four hundred square feet within distinct walls, other than partition walls, except when the partition walls are fireproof; and when oil is kept on neighboring premises, it shall be so arranged that there shall be at least twenty feet clear between any two lots, provided, that whenever, on account of the close contiguity of wooden buildings or inflammable structures, the storing of ten cases of kerosene oil, in each of such structures or separate premises might in the discretion of the Fire Marshal, cause special danger to the neighborhood in case of fire, the Fire Marshal may with the approval of the Minister of Finance, order the number of such cases reduced to any number not less than one case by written or verbal notice to any person upon such premises, or posted upon such premises, within such limits as the order shall specify and for these purposes, the Fire Marshal shall have the power to enter upon any premises in the Republic.

§1524. Whoever shall sell, cause to be sold, attempt to sell, give, furnish, deliver, or in any way dispose of any kerosene oil, which has not been tested and inspected by the Government Inspector and certified to by him as of a proper test, or shall violate or attempt any violation of Section 1523, or neglect or refuse to obey any order of the Fire Marshal as therein provided, and whoever shall knowingly sell, cause to be sold, attempt to sell, give, furnish, deliver or have in possession any oil mentioned in this Act which is below one hundred and fifteen degrees Fahrenheit when tested as provided in this Act, shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than fifty dollars nor more than five hundred dollars or imprisonment at hard labor for not more than six months or both at the discretion of the Court.

§1525. Any violation of duty under this Act, on the part of any Inspector shall be a misdemeanor punishable by a fine of not less than one hundred dollars or more than one thousand dollars or imprisonment at hard labor for not more than one year or both at the discretion of the Court; and he shall be removed from his position.

§1526. All parts of Sections 1507 to 1516 inclusive inconsistent with the provisions of this Act are hereby repealed.

PART III.—UNLAWFUL USE OR POSSESSION OF EXPLOSIVES.

§1527. Any person unlawfully using dynamite or other explosive chemical or substance for the purpose of inflicting bodily injury upon, or to terrify and frighten any person, or to injure or destroy any property, or damage the same in any manner, shall be liable, upon conviction, to pay a fine of not less than two hundred and fifty dollars, nor more than five thousand dollars, and to imprisonment at hard labor for a term not to exceed twenty years.

§1528. Any person who shall have in his possession dynamite or other explosive chemical or substance, other than ammunition for firearms, with intent to use the same for the purpose of inflicting bodily injury upon, or to terrify and frighten any person, or to injure or destroy any property, or damage the same in any manner, shall be liable, on conviction, to pay a fine of not more than three thousand dollars, or to imprisonment at hard labor for a term not to exceed five years.

§1529. At the trial of any person charged with having committed any of the offenses mentioned in Section 1528, proof of possession of any such explosive shall be *prima facie* evidence of such unlawful intent, and the burden of proof shall be on the defendant to show that such possession was lawful.

§1530. No person arrested for violating the provisions of this Act shall be released on bail without an order from a Circuit Judge, or from the Attorney-General, or the Marshal, or a Sheriff.

§1531. Concurrent jurisdiction to hear and determine all cases arising under this Act is hereby conferred upon the several District Magistrates and Circuit Judges at Chambers, who shall have for the purpose all the authority now conferred by law upon District Magistrates, in cases within their jurisdiction, with the right of appeal and to take exception, as in ordinary cases before such Magistrates.

NOTE TO CHAPTER 89.

§1507 is S. L. 1880, Ch. 24; C. L. p. 646.

§§1508-1509 is P. C. Ch. 89, §§2-3.

§1510 is S. L. 1878, Ch. 22; C. L. p. 615.

§§1511-1516 are P. C. Ch. 89, §§4-9.

§§1517-1526 are S. L. 1890, Ch. 68.

§§1527-1531 are P. G. Act 41.

## CHAPTER 90.

FOR THE CONSTRUCTION OF STATUTES WHERE THE ENGLISH AND  
HAWAIIAN VERSIONS DO NOT AGREE.

§1532. Whenever there shall be found to exist any radical and irreconcilable difference between the English and Hawaiian version of any of the laws of the Republic, which have been, or may hereafter be enacted, the English version shall be held binding.

## NOTE TO CHAPTER 90.

§1532 is P. C. Ch. 90, unaltered.

## CHAPTER 91.

TRIAL OF DIFFERENT DEGREES OF CERTAIN OFFENSES UNDER  
ONE INDICTMENT.

§1533. Under an indictment for robbery, larceny, or any other offense of more than one degree, the jury may, when the evidence will not warrant a verdict of guilty in the degree for which the prisoner is indicted, return a verdict for any lesser degree of the same offense.

## NOTE TO CHAPTER 91.

§1533 is P. C. Ch. 91, unaltered.



## CHAPTER 92.

## CONTROL OF THE PRESS.

Whereas, it is important for the protection of the rights of individuals, as well as of the public in general, that all newspapers and prints of like nature for the dissemination of news, information, instruction or other purpose should be issued by responsible individuals or companies; therefore,

*Be it Enacted, etc.:*

§1534. From and after the promulgation of this Chapter, it shall not be lawful to print and publish in the Hawaiian Islands any newspapers or prints of like nature for the dissemination of news, information, instruction or other purpose until a certificate, duly attested by the oath of any person hereinafter specified, shall have been filed in the office of the Minister of the Interior.

§1535. The certificate mentioned in Section 1534 shall contain the following information: The name of the proposed newspaper or other publication; the true names and abodes of the person or persons, or corporation who or which will print the proposed newspaper or other publication; the true names and abodes of the editor or editors and publishers of such newspaper or other publication; the true names and abodes of the owners or proprietors of such newspaper or other publication; a true description of the house or place whence the same is to be issued; and the dates or periods when it is proposed to issue or publish the same. Such certificate shall be open to inspection during office hours without fee or reward.

§1536. Such certificate shall be signed and duly sworn to by any one of the editors, publishers or proprietors of the newspaper or other publication referred to in the certificate.

§1537. Whenever any change shall occur in any of the facts covered by such certificate, a new certificate—noting such change and specifying in full the nature thereof, together with all the facts necessary to an understanding of such change and needed to complete all of the information contained in the certificate mentioned in Section 1535—shall be filed immediately in the office of said Minister of the Interior. It shall be open to inspection during office hours without fee or charge.

§1538. The Minister of the Interior and the Chief Clerk of the Department of the Interior are hereby authorized to administer the oath or affirmation required to such certificate, which shall be without charge.

§1539. There shall be paid upon the filing of the certificate mentioned in Section 1535, the sum of one dollar, upon the filing of any certificate of change, as required by Section 1537, the sum of half a dollar.

§1540. Any person who shall knowingly vend or sell any newspaper or other publication, for which a certificate must be filed, as by this Chapter prescribed, which certificate has not been filed, shall be liable to pay a fine of not less than ten nor more than one hundred dollars.

§1541. Any person making the certificates in this Chapter provided, or swearing to the same, who shall knowingly insert therein—or swear to—any false statement, shall be liable to the pains and penalties to which persons are liable for perjury.

§1542. In some prominent place in every newspaper or other publication by this Chapter covered, there shall always appear

the place of publication and issue thereof, the name of the person or concern printing or publishing the same, together with the names and places of residence of all the editors, besides the names and places of residence of the proprietors. In case of failure to comply with the requirements of this section, each of the persons whose names should be so published shall be liable to pay a fine of not less than fifty nor more than five hundred dollars; for any second or further offense each of such persons shall be liable to pay a fine of not less than one hundred nor more than one thousand dollars; and upon conviction after a first offense the further publication of the newspaper or other publication may, in the option of the Magistrate, be suspended temporarily or wholly.

§1543. Any person violating any provision of this Chapter not hereinbefore specifically provided for shall be liable to the payment of a fine of not less than one hundred nor over five hundred dollars.

§1544. The District Magistrates of any district wherein an offense under this Chapter arises are hereby authorized to take jurisdiction thereof.

NOTE TO CHAPTER 92.

§§1534-1544 are P. G. Act 33.

Newspapers publishing seditious libels. See §1625.

## CHAPTER 93.

## IMMIGRATION.

## PART I.—BUREAU OF IMMIGRATION.

§1545. There shall be, and is hereby created, a Bureau in the Department of the Interior, to be styled the Bureau of Immigration, for the purpose of controlling, superintending and regulating the immigration of laborers and other immigrants.

§1546. The said Bureau shall consist of the Minister of the Interior, who shall act *ex-officio* as the President thereof, and five other members, who shall be appointed by the President, who shall be known as the Board of Immigration.

§1547. It shall be the duty of the Minister of the Interior, with the approval of the Board of Immigration and the Cabinet, from time to time to make and promulgate such rules and regulations and to adopt such measures as may be deemed necessary or proper to promote immigration from abroad, and for the good government, control and protection of immigrants that may come or be brought into this Republic; and also to make such regulations as may be deemed expedient concerning the terms of contracts of service, or assignment to service, of any immigrants who may come under, or enter into contracts of service.

§1548. Such rules and regulations and amendments thereto and changes therein, as may be adopted in accordance with Section 1547 shall be published in a newspaper in the English and Hawaiian languages, in Honolulu, and shall thereupon have the force of law.

§1549. Any person who shall violate any rule or regulation adopted and published in accordance with Sections 1547 and 1548 shall be liable to a fine of not more than one thousand dollars, and any District Magistrate shall have jurisdiction of such offense.

§1550. Moneys appropriated by the Legislature for the objects contemplated by this Act, shall be paid out of the Public Treasury, upon the order of the Minister of the Interior.

PART II.—TRANSIENTS.

§1551. Any ship passing from China or any other Asiatic port, and calling at any port of this Republic on her voyage, shall not be permitted to disembark passengers at any port in this Republic without first having obtained the assent in writing of the Governor of the Island, or the Collector of the port at which such ship may call.

§1552. Be it further enacted, Before the Governor or Collector of the port as aforesaid shall grant such permit to land any passengers, as in the preceding Section set forth, the commander of the vessel shall furnish in duplicate a list of the passengers whom he desires to land, and the permission, if granted by the Governor or Collector as aforesaid, shall be signified by inscribing the same on one copy of the said list, and returning it to the master of the vessel as aforesaid.

§1553. Be it further enacted, That if the commander of any vessel; passing from China or any Asiatic port, carrying passengers, as in the preceding Sections set forth, shall disembark or allow to be disembarked, any passengers without first having obtained the permission as aforesaid, such commander shall be liable to a fine of twenty dollars for each and every passenger disembarked or allowed to disembark, which said fine shall be recoverable before any District Magistrate.

FF

## PART III.—ALIENS.

§1554. It shall be unlawful for aliens of the following classes to land in the Hawaiian Islands, to wit: Idiots, insane persons, paupers, vagabonds, criminals, fugitives from justice, persons suffering from a loathsome or dangerous contagious disease, stowaways, vagrants and persons without visible means of support, which means of support may be shown by the *bona fide* possession of not less than fifty dollars in money or a *bona fide* written contract of employment with a reliable and responsible resident of the Hawaiian Islands, binding such alien to work as an agricultural laborer for a term of not less than two years.

§1555. The master or any officer of any vessel, or any person who shall bring within the Hawaiian Islands, and land or attempt to land or permit to be landed any alien not lawfully entitled to enter the Hawaiian Islands, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine of not more than five hundred nor less than one hundred dollars for each and every such alien not entitled to enter the Hawaiian Islands so brought and landed or attempted or permitted to be landed, and may be imprisoned for a term not exceeding one year; and any such vessel shall not have clearance from any port of the Hawaiian Islands until such fine is paid.

§1556. Upon the arrival of any vessel from any foreign land at any port of the Hawaiian Islands, with passengers on board, it shall be the duty of the master of such vessel to report the name, nationality, last residence, destination, occupation and object of coming to the Hawaiian Islands of every such passenger, before any of them are landed, to the Collector-General of Customs or his deputy, or the Collector of Customs of the port at which such vessel has arrived, who shall thereupon inspect all of such passengers who may be aliens, either on board of the said vessel or at a designated place on shore. But such removal of such passengers from such vessel for the purpose of

such inspection shall not be considered to be a landing. The inspecting officers shall have the power to administer oaths and to take and consider testimony touching the right of any such alien passengers to land within the Hawaiian Islands, all of which shall be entered of record. All decisions made by the inspection officers touching the right of any alien to land shall be final, provided that the Collector-General of Customs may review the decisions of his deputy and the several Collectors of Customs in case appeal shall be taken to him from their decisions. It shall be the duty of the master and officers and agents of such vessel to adopt due precautions to prevent the landing of any alien at any place or time other than that designated by the inspection officers, and any master, officer or agent of such vessel who shall either knowingly or negligently land or permit to land any alien at any place or time other than that designated by the inspection officers, or than those who may have received a permit to land by the inspection officers, shall be deemed guilty of a misdemeanor and be liable to the penalties above mentioned. And any such vessel shall not have clearance from any port of the Hawaiian Islands until such fine is paid.

§1557. All aliens who may unlawfully come to the Hawaiian Islands shall, if practicable, be immediately sent out of the country on the vessel by which they were brought in. The cost of their maintenance while here, as well as the expense of removing such aliens out of the country, shall be borne by the owner or owners of the vessel on which such aliens came; and if any master, agent, consignee or owner of such vessel shall refuse to receive back on board such aliens, or shall neglect to detain them thereon, or shall refuse and neglect to carry them out of the country, or pay the cost of their maintenance while here, such master, agent, consignee or owner shall be deemed guilty of a misdemeanor, and be liable to the above mentioned penalties for each and every offense, and any such vessel shall not have clearance from any port of the Hawaiian Islands until such fine is paid.

§1558. Any alien who shall come into the Hawaiian Islands in violation of law may be returned as by law provided, at any time within one year thereafter, at the expense of the person or persons, vessel, or corporation bringing such alien into the Hawaiian Islands; and if that cannot be done, then at the expense of the Government; and any alien who becomes a public charge within one year after his arrival in the Hawaiian Islands from causes existing prior to his arrival shall be deemed to have come in violation of law, and may be returned as aforesaid. And any alien who shall come into the Hawaiian Islands in violation of law shall be detained by the Marshal or his deputy, or any Sheriff or Police officer, until there is an opportunity for his deportation.

§1559. The Circuit Judges and District Magistrates are hereby invested with full and concurrent jurisdiction of all misdemeanors arising under the provisions of this Act; and the Collector-General of Customs, his Deputy, and several Collectors of Customs, are invested with full jurisdiction in matters touching the right of any alien to land, or the question whether any alien who has landed has done so in violation of law, subject, however, as to said Deputy and Collectors to the review of the Collector-General of Customs in case of appeal.

#### PART IV.—PAUPERS, CRIMINALS, ETC.

§1560. From and after the passage of this Act it shall be unlawful for the master or other officer of any vessel arriving in the Republic of Hawaii from any foreign port or place to land or permit to be landed within the Republic of Hawaii any pauper, vagabond, criminal, fugitive from justice or stowaway that may be upon the vessel under his command.

§1561. The master or other officer of any vessel who shall knowingly bring within the Republic of Hawaii on his vessel, and land or attempt to land or permit to be landed any pauper,



vagabond, criminal, fugitive from justice, or stowaway that may be upon his vessel at the time of her arrival shall be deemed guilty of a misdemeanor, and on conviction thereof before any District Magistrate, shall be punished by a fine of not more than five hundred nor less than one hundred dollars for each and every such pauper, vagabond, criminal, fugitive from justice or stowaway so brought, and may also be imprisoned for a term not exceeding one year.

§1562. The Marshal of the Republic or his Deputy or any Sheriff or Police officer of the Republic shall and he is hereby authorized and directed to return to and put on board the vessel that brought any person that may be a pauper, vagabond, criminal, fugitive from justice or stowaway and landed or permitted to be landed within the Republic.

§1563. It shall be unlawful for any person to land in the Hawaiian Islands from any vessel arriving from a foreign port who is a criminal or refugee from justice, or who has been convicted of crime, or who has been under arrest for a criminal offense, and has departed or escaped from the Hawaiian Islands, in order to avoid trial, or who has been deported from the Hawaiian Islands by order of the President or Marshal in time of martial law, or who has been banished by the sentence of any Court; unless such person shall have received a permission from the Minister of Foreign Affairs to so land.

§1564. Any person landing or attempting to land in the Hawaiian Islands in violation of the provisions of Section 1563 shall be deemed guilty of a misdemeanor and on conviction shall be punished by imprisonment at hard labor for a term not exceeding two years or a fine not exceeding five thousand dollars, or both by such fine and imprisonment.

§1565. The master or any other officer of any vessel, or any person who shall knowingly bring within the Hawaiian Islands and land or attempt to land or permit to be landed any person

described in Section 1563 with knowledge or reasonable cause to believe that such person is within the prohibition of Section 1563 shall be deemed guilty of a misdemeanor, and on conviction shall be punished by a fine of not more than five hundred dollars for each and every such person so brought and landed, or attempted or permitted to be landed, and may be imprisoned at hard labor for a term not exceeding one year; and any such vessel shall not have clearance from any port of the Hawaiian Islands until such fine is paid.

#### PART V.—CONTRACT LABOR.

§1566. From and after the passage of this Act, it shall be unlawful for any person, company, partnership or corporation in any manner whatsoever to prepay the transportation, or in any way assist, encourage or arrange for the importation, migration or introduction of any alien or aliens, any foreigner or foreigners into the Hawaiian Islands, under contract or agreement, made previous to the importation, migration or introduction of such alien or aliens, foreigner or foreigners, to perform agricultural or domestic labor or for service in mills or factories in the Hawaiian Islands, provided however, that any person, company, partnership or corporation may bring aliens or foreigners into the Hawaiian Islands as aforesaid, upon receiving from the Board of Immigration its written approval of the contracts under which it is proposed to introduce such aliens or foreigners.

For the purposes of this Act all aliens and foreigners arriving within the jurisdiction of the Republic of Hawaii in any vessel, or who, having so arrived, may be performing quarantine on shore, shall be deemed to be without the Hawaiian Islands, and the provisions of this Act regarding the importation, migration or introduction of aliens and foreigners shall apply to such aliens and foreigners so arriving or in quarantine.

§1567. All contracts or agreements which may hereafter be made by and between any person, company, partnership or cor-

poration, and any alien or aliens, foreigner or foreigners, to perform agricultural or domestic labor or for service in mills and factories in the Hawaiian Islands, previous to the migration, importation, introduction or arrival of the person or persons whose labor or service is contracted for into the Hawaiian Islands, shall be void, except such contracts and agreements as shall have been approved by the Board of Immigration as aforesaid.

§1568. For every violation of any provisions of Section 1566, the person, company, partnership or corporation violating the same shall forfeit and pay for the benefit of the Treasury for every such offense the sum of three hundred dollars for each alien or foreigner introduced or landed in the Hawaiian Islands, or whose passage has been prepaid, or whose introduction into this country has been assisted, encouraged or arranged for contrary to the provisions of Section 1566, upon conviction thereof before a District Magistrate.

§1569. The master of any vessel who shall knowingly bring within the Hawaiian Islands on such vessel, and land or permit to be landed from any foreign port or place any alien or foreigner who, previous to embarkation on such vessel, had entered into contract or agreement to perform agricultural or domestic labor or service in mills or factories in the Hawaiian Islands, which contract or agreement had not been approved by the Board of Immigration as aforesaid, shall forfeit and pay for the benefit of the Treasury the sum of one hundred dollars for each alien or foreigner so introduced or landed upon conviction thereof before a District Magistrate.

§1570. Sections 1566 to 1569 shall not apply to immigration of laborers under contract under the provisions of the Convention between this country and Japan of January 28th, A. D. 1886.

## PART VI.—CHINESE.

§1571. No Chinese, except women who have relatives by marriage or blood residing in this Republic, children under ten years of age who have parents or guardians residing in this Republic, clergymen, teachers and merchants heretofore residing and doing business in this Republic, except as hereinafter provided, shall be allowed to enter this Republic unless upon condition that while here he will engage in no trading or mechanical occupation other than domestic service or agricultural labor in the field or in sugar or rice mills, and that he will, whenever he shall cease to follow his vocation as agricultural laborer in the field or in sugar or rice mills, or as domestic servant, leave this Republic, and that for every breach of such condition he shall upon conviction by any District Magistrate be liable to a fine of one hundred dollars.

§1572. Conditional permits to enter this Republic may be granted by the Minister of Foreign Affairs, with the approval of the Executive Council, for such Chinese as shall be recommended by the Board of Immigration, upon the application of employers of domestic, agricultural or mill labor, which said permits shall contain the condition printed in both the English language and in Chinese characters, that the bearer is allowed to enter this Republic solely on condition that while here he will engage in no trading or mechanical occupation other than domestic service or agricultural labor in the field, or in rice, coffee or sugar mills, and that he will, whenever he shall cease to follow his vocation as agricultural laborer in the field, or in sugar, coffee or rice mills, or as domestic servants, leave this Republic, and that for every breach of such condition he shall on conviction by any District Magistrate be liable to a fine of one hundred dollars. Permits to enter this Republic may also be granted by the Minister of Foreign Affairs for any Chinese resident in this Republic at the date of the passage of this Act, provided that such person shall have resided within the Republic

for two years immediately preceding such passage; and also to such other persons as may wish to sojourn temporarily in the Republic as travelers, or as merchants having business interests in this Republic, provided that such sojourn shall not exceed six months; and provided that such person so permitted to enter shall give a bond to said Minister, in the sum of five hundred dollars, liquidated damages, conditioned that he will leave the Republic within six months, and if he shall be found within the Republic after the expiration of six months shall be guilty of a misdemeanor, and shall upon conviction be imprisoned at hard labor for a term not to exceed six months. For each permit granted under this section the Minister of Foreign Affairs shall be paid a fee of five dollars.

§1573. The master of any vessel in which any Chinese for whom such permit shall not have been granted, other than clergymen, teachers or merchants formerly residing and doing business in this Republic, shall be brought into this Republic and landed here, shall be liable to a fine of one hundred dollars for every Chinese so illegally brought into this Republic upon conviction thereof by any District Magistrate, and such fine shall be a lien upon the vessel in which such Chinese shall have been brought into this Republic, and shall be enforced by proceeding in admiralty.

§1574. Such permits shall be printed in duplicate, the duplicate being in such case preserved in the Foreign Office as a stub in the book from which the original is taken; when the original shall be presented by any applicant for admission to the Republic, it shall be stamped across the face by the Customs officers, in red ink, with the word "cancelled," and also with the equivalent of said word in Chinese characters, and with the date of such cancellation. All such cancelled permits shall be returned to the Foreign Office by the Collector-General of Customs, where, after being compared with their respective duplicates, they shall be filed and preserved.

§1575. The Minister of Foreign Affairs shall make suitable regulations whereby Chinese clergymen, colporteurs, and merchants formerly residing and doing business in this Republic shall be identified and vouched for as such before being allowed to land in this Republic, and no Chinese claiming to be such shall be allowed to land until he shall have received a certificate from the Minister of Foreign Affairs certifying that such Chinese is allowed to enter this Republic as a returned clergyman, colporteur or merchant, as the case may be. Such certificate shall, when presented by the holder thereof seeking to enter the Republic, be stamped in red ink in like manner with the aforesaid permits and returned to such holder, and the counterparts shall be preserved in the Foreign Office.

§1576. A fee of one dollar shall be paid at the Foreign Office for each and every permit issued under Section 1572, and a fee of five dollars for each certificate issued under Section 1575.

§1577. Every employer upon engaging the services of any such Chinese upon arrival in this Republic shall register in the Foreign Office the name and intended place of occupation of every Chinese thereby allowed to enter this Republic, and in case of any change in the employment of any such Chinese, each successive employer shall cause such change to be registered in the Foreign Office.

§1578. A charge of twenty-five cents shall be made for every name so registered, and every employer failing to cause such registry to be made shall be liable to a fine of not exceeding fifty dollars for every such failure on conviction thereof by any District Magistrate.

§1579. This Act shall not apply to Diplomatic or other officers of the Chinese or other Governments traveling upon the business of that Government, whose credentials shall be taken as

an equivalent to the permit in this Act mentioned, and shall exempt them and their body and household servants from the provisions of this Act as to other Chinese.

The Collector-General or any Collector of Customs shall have the authority to detain any person detected in, or reasonably suspected of a violation of any of the provisions of this Act, and to hold him until a warrant of arrest can be obtained.

§1580. All moneys received by the Minister of Foreign Affairs under this Act shall from time to time, after audit and payment of the necessary expenses for carrying out its provisions, be paid into the Treasury to the credit of the "Chinese Immigration Fund."

§1581. The Minister of Foreign Affairs, by and with the consent of a majority of the Cabinet, is hereby authorized and empowered to make and publish all such rules and regulations, and the same to alter, amend or nullify, from time to time, as may be found necessary or proper to carry out the aim, intent, object and provisions contemplated by said Act, and such rules or regulations and all amendments or alterations thereto shall after publication in one or more newspapers printed and published in Honolulu have the force and effect of a statute law of the Republic.

§1582. Any Chinese who shall enter or attempt to enter this Republic contrary to the provisions of this Act, or without the permit or permits hereinbefore provided for, shall upon conviction before any District Magistrate be liable to a fine of not more than two hundred dollars or to imprisonment at hard labor for a term not exceeding six months, or both, in the discretion of the Court.

§1583. In addition to the conditions named in Section 1572 upon which permits may be granted to Chinese to enter the Hawaiian Islands to engage as agricultural laborers in the field,

or in rice or sugar mills, such permits shall only be granted upon the further condition that the sum of one dollar and fifty cents at the end of each month shall be paid by said laborer to the Board of Immigration, in such manner and subject to such regulations as said Board shall direct, until such payments amount in each case to the sum of thirty-six dollars, to be held as a fund to the credit of the laborer for the uses and purposes hereinafter set forth.

§1584. The Board of Immigration shall keep proper accounts with each laborer of the amounts deposited by him under this Act. At the heading of each account shall be pasted the laborer's photograph and be written in his name and the number of his certificate. All moneys thus deposited by the laborers shall be invested by the Board of Immigration in the Postal Savings Bank, and the interest shall be credited to each laborer's account at the same rate and in the same manner as is being done by the Postal Savings Bank.

§1585. For the purpose of properly identifying the laborer, he shall upon his arrival in this country furnish the Board of Immigration with two three-fourths face photographs, one of which is to be retained by the Board of Immigration, and the other one is to be attached to the laborer's certificate of identification.

§1586. When the laborer shall cease to follow his avocation as an agricultural laborer in the field, or as a laborer in sugar or rice mills, and shall depart from the Hawaiian Islands, the amount to his credit shall be used as follows: The Board of Immigration shall apply so much thereof as may be necessary for the payment of his passage, and pay the remainder to him.

§1587. Every employer of Chinese admitted into this country under permits provided by this Act shall deduct each month from the wages due such laborer at the end of each month the



sum of one dollar and fifty cents, and every employer who shall fail to remit to the Board of Immigration the amount above provided out of the wages of such laborers, and every laborer who shall refuse or neglect to pay such amount at the time and in the manner directed by said Board, shall be guilty of a misdemeanor and liable to a fine of not less than ten nor more than fifty dollars for each failure; and the said Board may thereafter refuse to grant the application of such employer for permits for Chinese to enter this country.

Provided, however, if any such employer shall within thirty days after each failure show to said Board good and satisfactory reasons for such failure, said penalties shall not be imposed.

§1588. It shall be lawful for the Minister of Foreign Affairs to grant permits as shall be recommended by the Board of Immigration, upon the application of the employers of domestic, agricultural or mill labor, to any Chinese now residing in the Hawaiian Islands under temporary resident's permits issued in accordance with Section 1572.

§1589. Such permits shall contain the condition printed in both the English language and in Chinese characters, that the bearer is allowed to remain in this country solely on condition that while here, he will engage in no trading or mechanical occupation, other than domestic service or agricultural labor in the field, or in rice or sugar mills, and that he whenever he shall cease to follow his vocation as agricultural labor in the field, or in rice or sugar mills or as domestic servant, leave this country, and that for every breach of such condition, he shall on conviction by any District Magistrate, be liable to a fine of one hundred dollars.

§1590. Upon the issuance of such permit to such laborer or servant, the conditions upon which he entered this country shall be void, and the bond theretofore given by him shall be can-

celléd, and he shall thereafter be subject to all the conditions, restraints, regulations and penalties, which are imposed by law upon Chinese who come to this country to engage in domestic service or agricultural labor in the field, or in rice or sugar mills upon permits issued to them under the provisions of Sections 1571 to 1587.

§1591. Such Chinese laborers and servants shall be included in and be a part of the five thousand Chinese whose entrance into this country is authorized under Section 2 of Chapter 80 of the Session Laws of 1892. [Superseded by Section 1572.]

NOTE TO CHAPTER 93.

PART I.

§§1545-1550 are S. L. 1837, Ch. 8.

PART II.

§§1551-1553 are S. L. 1878, Ch. 20; C. L. p. 613.

PART III.

§1554 is P. G. Act 66. Amended L. R. Act 3.

§§1555-1559 are P. G. Act 66

PART IV.

§§1560-1562 are S. L. 1892, Ch. 101.

§§1563-1565 are L. R. Act 23.

PART V.

§§1566-1570 are L. R. Act 17.

PART VI.

§§1571-1580 are S. L. 1892, Ch. 80.

§1572 amended S. L. 1896, Act 15.

§1581 is S. L. 1892, Ch. 91.

§1582 is S. L. 1892, Ch. 104.

§1583 is L. R. Act 27.

§§1584-1586 are P. G. Act 74.

§1587 is L. R. Act 27.

§§1588-1591 are S. L. 1895, Act 3.

Cases in Hawaiian Reports: *Bowler v. Board of Immigration*, 7 Haw. 568; *Cong Chum v. Kohala*, 8 Haw. 427; *Re v. Ah Hung*, 8 Haw. 491; *Re Cabinet*, 8 Haw. 568; *Chock Kem v. Austin*, 8 Haw. 691; *Re Tatsu*, 10 Haw. 701.

## CHAPTER 94.

## SECRET ASSOCIATIONS.

§1592. It shall not be lawful for any persons to organize, form or maintain any secret association for any purpose whatever except under the provisions in this Act set forth.

§1593. Any persons desiring to organize, form or maintain a secret association in this Republic shall apply to the Minister of the Interior for a license to organize, form and maintain a secret association. Such application shall be in writing stating the object for which such association is organized, formed and maintained and shall be verified by the oaths of at least two of the persons making the application.

§1594. Such application shall be submitted to the President who may grant or refuse the request made.

§1595. If such application shall be granted the Minister of the Interior shall free of any cost or charge issue a license to the applicants to organize, form and maintain a secret association. The said license shall state the name of the association, the names of the applicants and the object of the association.

§1596. Such license may be revoked and cancelled at any time by the President.

§1597. Any person or persons who shall organize, form, maintain, join, become a member or remain a member of any secret association not licensed as provided for in this Chapter,

shall be guilty of a misdemeanor and upon conviction be punished by imprisonment not to exceed three months, or by a fine not exceeding one hundred dollars or by both such fine and imprisonment in the discretion of the Court.

§1598. Any person owning or occupying premises upon which an unlicensed secret association assembles who shall knowingly permit such assembly shall be punished on conviction by imprisonment not to exceed six months or by a fine not to exceed two hundred dollars or by both such fine and imprisonment in the discretion of the Court.

§1599. All secret associations now existing in this Republic shall within thirty days after the approval of this Act apply for the license provided for in this Act, and if such license be refused shall thenceforth cease to assemble, and any person or persons who may be members of such association and shall assemble or remain a member or members of such secret association shall be guilty of a misdemeanor and punished on conviction as provided for in Section 1597.

§1600. The provisions of this Act shall not apply to such secret associations which have obtained and have or such which may hereafter obtain charters of incorporation under the laws of this Republic.

NOTE TO CHAPTER 94.

§§1592-1600 are S. L. 1884, Ch. 52.

## CHAPTER 95.

## AGRICULTURE AND FORESTRY.

## PART I.—COMMISSIONERS OF AGRICULTURE.

§1601. The Minister of the Interior is hereby authorized to appoint three competent persons for each port of entry in the Republic, or any other place, if necessary, who shall be designated "Commissioners of Agriculture," and from time to time, when such offices become vacant, to appoint competent persons to fill the same.

One of the three members of each commission shall be appointed chairman. A majority of the members of each commission shall constitute a quorum, and have power to act.

§1602. It shall be the duty of such Commissioners to seek to prevent the introduction into this Republic of any plant disease, blight, or insect pests injurious to any tree or trees, plant or plants, or vegetation; and to seek to exterminate any such diseases, blight or insect pests now existing or hereafter introduced.

They shall have the power to enter upon any premises where they have reason to believe there is any tree, plant, or vegetation affected with any disease, blight or insect pest; and to take all reasonable and proper steps to prevent the spread of any such disease, blight or insect pest, and if after due trial (such trial to be not longer than ten days) it is found by said Commissioners, or one of them, that the trees, plants or vegetation cannot be cured, or the blight destroyed, that then and in such case he or they may order the same destroyed.

§1603. The master of any vessel entering any port of this Republic from a foreign port, on which there shall be any plant to be landed in this Republic, shall immediately upon arrival notify the Customs officers of such fact, and such officers shall at once cause the Commissioners to be notified, and shall not permit the plant, nor any of the soil, containers or coverings connected with the same, to be removed from the vessel until one or more of the Commissioners shall have inspected and passed the same.

§1604. Whenever after careful examination and attention a Commissioner shall have reason to believe that any plant imported from a foreign port is affected with any disease, blight or insect pest, he shall report the same to at least one other of the Commissioners, and if any two of such Commissioners shall decide that such plant is so affected, they shall cause such plant to be utterly destroyed, together with its container and coverings; and shall dispose of the soil, if any, in which such plant was imported in such manner as shall destroy any disease, blight or insects which may be in the same.

§1605. It shall be the duty of every person to report immediately to the nearest Commissioner any tree, plant or vegetation on or about his own premises or the premises of another which he shall have reason to believe is affected with disease, blight or insect pest.

§1606. The Commissioners for the Island of Oahu, subject to the approval of the Minister of the Interior, may make such regulations for the Republic as they judge necessary for the public safety in the prevention of the introduction or spread of plant diseases, blight and insect pests. Due notice of all such regulations shall be given in the Hawaiian, English, Portuguese, Japanese and Chinese languages.

§1607. Any person violating any of the provisions of this Act, or any of the regulations of the Commissioners, after the

same shall have been duly approved and published, shall be deemed guilty of a misdemeanor, and upon conviction thereof before any District Magistrate shall be fined not more than one hundred dollars.

§1608. The Commissioners shall continue in office during the pleasure of the Minister of the Interior, and shall serve without pay; but they may be allowed such reasonable expenses as the Minister of the Interior shall approve.

§1609. For the purpose of carrying into effect the provisions of this Act the Commissioners of Agriculture for the Island of Oahu shall be and are hereby invested with full power to apportion and disburse all sums of money that shall be appropriated by the Legislature for this purpose. All drafts upon the Public Treasury for expenditures under this Act shall be drawn by the Chairman of the Commissioners for the Island of Oahu, and countersigned by the Minister of the Interior.

#### PART II.—PRESERVATION OF FORESTS.

WHEREAS, It is an established fact that the destruction of forests in any country tends to diminish the supply of water; therefore,

*Be it Enacted, etc.:*

§1610. That the Minister of the Interior is hereby authorized to set apart and cause to be protected from damage by trespass of animals or otherwise, such woods and forest lands, the property of Government, as may in his opinion be best suited for the protection of water sources, and the supply of timber and fruit trees, cabinet woods and valuable shrubbery.

§1611. For the purposes contemplated in this Act, the Minister of the Interior is hereby authorized to appoint some competent person as superintendent of woods and forests, who shall,

under the direction of the said Minister, enforce such rules and regulations as may be established to protect and preserve such reserved woods and forest lands from trespass. Said superintendent shall have charge of the construction of all fences and barriers required to protect the said woods and forest lands, and shall be responsible for their being kept in good condition. He shall, under the direction of the said Minister, be empowered to cause the arrest of any trespassers on such lands, and all constabulary or police of the districts in which such woods and lands may be situated, are hereby required to assist the said superintendent in carrying out the directions of the said Minister in the premises. And it is hereby made an offense punishable by a fine not to exceed one hundred dollars, or imprisonment at hard labor not to exceed one year, upon conviction before any District Magistrate, of any person who will violate any of the rules or regulations established as aforesaid tabuing such woods and forest lands.

§1612. The Minister of the Interior is hereby authorized to secure from the Commissioners of Crown Lands, by lease or otherwise, such woods and lands being the property of the Crown, as may be suitable for carrying out the purposes set forth in this Act.

§1613. Whenever it shall be necessary to extinguish any private right or title in any woods or lands required to fully carry out the intention of this Act, the fair valuation of the same shall be determined by referees agreed upon by and between the parties interested therein and the Minister of the Interior, and the valuation so adjudged and determined shall be the extreme limit of the price to be paid by the Government for such woods or lands, and upon making tender of such price so determined by the referees, it shall be lawful for the said Minister to take possession of such woods and lands for the purposes aforesaid.



§1614. The superintendent of woods and forests shall receive for the faithful performance of the duties of his office, such sum as the Minister of the Interior shall direct.

PART III.—COFFEE.

§1615. That in order to prevent the introduction of the coffee leaf disease, and other diseases injurious to the coffee plant, the importation into the Republic of Hawaii of coffee trees or shrubs is hereby prohibited.

§1616. Any person who shall violate Section 1615 shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not less than twenty-five nor more than fifty dollars, and any trees or shrubs so imported contrary to this law shall be forthwith destroyed by the Marshal or his Deputy.

PART IV.—FOREST ROADS.

§1617. From and after the passage of this Act it shall not be lawful for any person to cut, mutilate or destroy any forest tree or growing shrubbery or underbush within two hundred and fifty feet of any road which may have been or hereafter may be constructed by the Government through any natural forest.

§1618. This Act shall not be construed to prevent any person who may have already cleared and planted land, such land now being under cultivation, from clearing trees, shrubbery and underbrush therefrom to a sufficient extent to properly continue such cultivation, nor to prevent the holder of such lot from constructing a road to the rear of such lot.

§1619. Any person violating this Act shall be fined not less than ten dollars nor more than fifty dollars for each offense.

## NOTE TO CHAPTER 95.

§§1601-1609 are S. L. 1890, Ch. 2.

§§1610-1614 are S. L. 1876, Ch. 30; C. L. p. 584.

§§1615-1616 are S. L. 1888, Ch. 34.

§§1617-1619 are S. L. 1892, Ch. 88.

## CHAPTER 96.

## SEDITIONOUS OFFENSES.

§1620. Every one commits a misdemeanor who publishes, verbally or otherwise, any words or any document with a seditious intention. If the matter so published consists of words spoken, the offense is called the speaking of seditious words. If the matter so published consists of written or printed words, the offense is called the publication of a seditious libel.

§1621. Every one commits a misdemeanor who agrees with any other person or persons to do any act for the furtherance of any seditious intention common to both or all of them. Such an offense is called a seditious conspiracy.

§1622. A seditious intention is an intention to bring into hatred or contempt, or to excite disaffection against the Republic of Hawaii, or the laws thereof, or to excite the people to attempt the alteration by force of any matter established by the laws of the Republic, or to raise discontent or disaffection against the Republic, or to promote feelings of ill-will and hostility between different classes of people in the Hawaiian Islands.

§1623. In determining whether the intention with which any words were spoken, written or printed, any document was published, or any agreement was made, was or was not seditious, every person must be deemed to intend the consequences which would naturally follow from his conduct or the words spoken or published at the time and under the circumstances in which he so spoke, published or conducted, himself.

§1624. Any person adjudged guilty of any misdemeanor within the meaning of this Act shall be punished by imprisonment at hard labor for not more than two years or by fine of not more than one thousand dollars.

§1625. If any person is convicted of the offense of the publication of a seditious libel with reference to the publication of words in a newspaper of which he is an editor, publisher, owner or proprietor, the Judge or Magistrate, trying the case, may in addition to the sentence awarded against such person suspend the further publication of such newspaper for any period not exceeding four years. Every such suspension of the publication of a newspaper shall extend to and include any newspaper that may be started in place of such suspended newspaper, having the person so convicted of seditious libel as an editor, publisher, owner or proprietor thereof.

§1626. District Magistrates and Circuit Judges shall have concurrent original jurisdiction to hear and determine cases under this Act.

§1627. If the Marshal or a Deputy Marshal or any Sheriff or Deputy Sheriff knows or has reason to believe that any person has lawless intentions that are hostile to public order, or the established system of Government, he may complain to a Circuit Judge, who shall take his sworn statement reduced to writing or that of any witnesses that he may produce. If it appears to the satisfaction of the Judge from such information that the complainant has reason to believe that the person complained of harbors lawless intentions hostile to public order, or the established system of Government, he shall cause him to be arrested and brought before him by warrant, and shall thereupon examine him in regard to the truth of the complaint.

In such examination the prisoner shall have the same rights of producing witnesses and proofs in his defense as are accorded

by Section 2, of Act 6 of the Constitution to a person charged with an offense.

§1628. If upon such examination it is shown that the prisoner had at the time of his arrest lawless intentions hostile to public order, or the established system of Government, he shall be sentenced to banishment from the Hawaiian Islands for any term of years not less than two years, or in the discretion of the Judge, he may be required to give a bond with sufficient surety in favor of the Minister of Finance to be approved as to amount and surety by the Judge, conditioned that he will not within one year do anything of a lawless character hostile to public order, or the established system of Government; and if such bond be not executed according to the order of the Judge, nor approved by him, the prisoner shall be committed to prison and shall remain in custody until the bond be so executed and approved. Provided, however, that any prisoner so imprisoned for failure to furnish a bond; as so required, may upon his own request have a sentence of banishment recorded against him as aforesaid.

§1629. Any person against whom a sentence of banishment shall have been rendered under this Act shall be held in confinement by the Marshal or his Deputy until there shall be an opportunity for carrying out the sentence, and he shall not thereafter without the consent of the Executive Council be permitted to return to the Hawaiian Islands before the expiration of his term of banishment which shall begin to run from the date of his leaving the country.

§1630. If any person banished under the provisions of this Act shall return to the Hawaiian Islands before the expiration of his term of banishment without the consent of the Executive Council, he shall be guilty of a misdemeanor, and upon conviction thereof shall be sentenced to imprisonment at hard labor for a term not to exceed two years.

§1631. In any proceedings under this Act the defendant may appeal from the decision of the Judge or Magistrate to the Supreme Court in Banco, and no other appeal shall be allowed. He shall not be entitled to bail as of right.

§1632. In case of a sentence of banishment against any person, as herein provided, the Judge may award as part of the costs of Court against such person, a sufficient sum to cover the expense of his deportation.

NOTE TO CHAPTER 96.

§§1620-1626 are P. G. Act 8 except:  
§1625 amended L. R. Act 28.  
§§1627-1632 are L. R. Act 29.

## CHAPTER 97.

## OPIUM.

§1633. The importation of opium or any preparation thereof into the Hawaiian Islands, except as authorized by Section 1634, is hereby strictly prohibited; and whoever shall import, sell, give or furnish opium, or any preparation thereof, to any person in the Hawaiian Islands, except as provided in Section 1634, shall be liable to a penalty of not less than five hundred dollars, nor more than two thousand dollars, and to be imprisoned at hard labor for any term not less than one month nor more than two years; one-half of which pecuniary penalty shall be paid to the person or persons giving the information which shall lead to the conviction of the offender.

§1634. The Board of Health may, from time to time, import such quantities of opium or preparations thereof as the said Board shall deem necessary for medical purposes in the Hawaiian Islands, and shall furnish it at cost price to any physician or surgeon having a diploma or certificate from some medical college or university, and who has a license to practice medicine in the Hawaiian Islands; also, to the person in charge of the medicines at the Leper Settlement at Molokai, to be used exclusively for medical purposes. And the said Board may also furnish it to the captain or surgeon of any vessel bound to a foreign port for use on board of such vessel.

§1635. Any person who shall have in his possession opium, or any preparation thereof, which he shall not have received from the Board of Health, or from a duly licensed physician

or surgeon, as prescribed in Section 1634, shall forfeit such opium or preparation thereof to the Government, and the same shall be seized and delivered to the Board of Health; and such person shall be liable to a penalty of not less than fifty nor more than two hundred and fifty dollars, or to be imprisoned at hard labor for a term of not less than one month nor more than six months, or both, in the discretion of the Magistrate, one-half of which pecuniary penalty shall be paid to the party giving the information which shall lead to the conviction of the offender.

§1636. Any physician or surgeon who shall sell, prescribe or furnish opium, or any preparation thereof, to any person in the habit of smoking or otherwise using the same, or to any other person, except as a remedy in case of sickness, shall forfeit to the Government all opium, or preparations thereof, which may be in his possession; and it shall be seized and delivered to the Board of Health, and he shall be fined in the sum of not less than twenty-five nor more than one hundred dollars; and if he shall violate this Act more than once he shall not again be furnished with opium by the Board of Health.

§1637. All confiscated opium or preparations thereof which shall have come into the possession of the Board of Health, shall be securely kept until such time as the same shall be disposed of as hereinafter provided, except that where the quantity of opium seized shall be less than one one-half pound tin the same shall be destroyed.

§1638. The Board of Health shall, as soon as practicable, sell all confiscated opium or preparations thereof, which shall have come into its possession, and at such price as it may deem fit; such sale may be either public or private in the discretion of the Board, provided that all opium so sold shall be exported from this country. The proceeds derived from the sale of confiscated opium shall be the property of the Hawaiian Government; provided, however, that the Board of Health may, in



its discretion, destroy any or all opium which may have come into its possession under the provisions of this Act. In lieu of one-half of the gross proceeds of the sale of confiscated opium heretofore paid the informer, said informer shall be paid the sum of one dollar per pound of actual opium or preparation thereof, seized and confiscated; said sum to be paid from any fund that may be available for said purpose, and shall be payable upon the confiscation of said opium to the Government.

§1639. The several District Magistrates are hereby invested with authority to try and determine all cases arising under this law.

§1640. Nothing in this Act shall be construed to exempt any person or vessel from the pains and penalties prescribed by the laws of the Hawaiian Islands against smuggling.

#### NOTE TO CHAPTER 97.

§§1633-1640 are P. G. Act 12, amended as follows. §1633 and §1638 by P. G. Act 77.

Cases in Hawaiian Reports: King v. Apuna, 3 Haw. 154; King v. Auwai, 3 Haw. 687; King v. Ah Fong alias Ah Fawn, 4 Haw. 619; King Ah Sing, 5 Haw. 553; Re Brito, 7 Haw. 42; Re v. Young Tang, 7 Haw. 49; Rex v. Young Hong, 7 Haw. 359; Rex v. Lau Kiu, 7 Haw. 489; The Consuelo, 7 Haw. 704; Rex v. Ah Hoy, 7 Haw. 749; Rex v. Wall, 7 Haw. 760; Govt. v. Gertz, 9 Haw. 288; Rex. v. Lee Yick, 10 Haw. 135; The Henrietta, 10 Haw. 241; R. v. Anderson, 10 Haw. 252.

## CHAPTER 98.

## COURTS MARTIAL.

§1641. The following officers may appoint Courts Martial: The Commander-in-Chief, General Courts Martial; the Regimental Commander, Regimental Courts, and every officer commanding a garrison or other place where troops are quartered shall be competent to appoint for such garrison or place, garrison Courts Martial.

§1642. Officers who may appoint a Court Martial shall be competent to appoint a Judge-Advocate for the same.

§1643. Courts Martial, and the Judge-Advocate thereof, shall have the same power to summon and examine witnesses as District Courts.

§1644. General Courts Martial may consist of any number of officers from three to five inclusive.

§1645. Regimental and Garrison Courts may consist of any number of officers from one to three inclusive.

§1646. General Courts Martial shall have concurrent jurisdiction over all offenses which may be tried before a regimental or garrison Court Martial, and exclusive jurisdiction over the following offenses:

Conduct unbecoming an officer and a gentleman.

Enlisting in another company without proper discharge.

Disobeying a lawful command of a superior officer.

Inciting or joining in, a mutiny or sedition, or failure to report same to commanding officer.

Desertion.

Cowardice while on active duty.

Misbehavior in presence of the enemy.

All felonies committed in the time of war by persons belonging to or serving with the National Guard or Sharpshooters.

Absenting oneself without leave.

Sleeping on post when a sentinel, or leaving post before being relieved.

Giving information to any person concerning the equipment of the National Guard or Sharpshooters or the amount, kind, location of arms, ammunition or military stores, the property of the Government.

Selling or appropriating or parting with any arms, ammunition or Government property.

Knowingly receiving or purchasing arms, ammunition or Government property from one not having lawful authority to sell or dispose of same.

Forcing safe-guard in time of war.

Relieving with money, victuals or ammunition, or harboring, protecting, corresponding with or giving intelligence to the enemy directly or indirectly.

Making false muster or return.

Violating any regulations promulgated by the Commander-in-Chief for the Government of the National Guard and Sharpshooters.

§1647. The following offenses shall be within the jurisdiction of regimental and garrison Courts Martial.

Occasioning false alarms.

Hiring duty, conniving at or allow same.

Drunkenness while on duty or while on active service.

Failure to report for duty, drill or parade.

Breaking furlough or leave.

Disorderly conduct on active service.  
Want of personal neatness.  
Want of care of arms, uniform or equipment.  
Profanity.  
Lying out of quarters.  
Reproachful or provoking speeches and gestures.  
Disrespectful behavior to a superior officer.  
Making known watchword to one not entitled to receive it.  
Committing waste or spoil (unless by order of officer commanding in field.)

§1648. All officers and enlisted men in the service of the Republic of Hawaii, shall at all times be subject to trial by Court Martial.

§1649. Officers shall be tried only by General Courts Martial; and no officer shall, when it can be avoided, be tried by officers inferior to him in rank.

§1650. All members of Courts Martial before proceeding with any trial shall take an oath to administer justice without partiality, favor or affection, according to the laws of the Republic of Hawaii.

§1651. In the conduct of all trials, Courts Martial shall follow military usage and precedents heretofore established, and as set forth in the statutes and regulations governing the army of the United States.

§1652. All persons who in time of war, rebellion or insurrection against the Supreme Authority of the Republic of Hawaii, shall be found lurking or acting as spies, in or about any of the fortifications, posts, quarters or encampments of any of the Military Forces of the Republic of Hawaii, or elsewhere, shall be triable by a General Court Martial, or by a Military Commission, and shall, upon conviction thereof, suffer death or

such other penalty as may be imposed by such Courts Martial or Military Commission.

§1653. All persons sentenced to imprisonment by Courts Martial or Military Commission may be confined in such place as the sentence of the Court may direct.

§1654. No sentence of death, imprisonment, or dismissal of officers from the service, shall be valid unless approved by the Commander-in-Chief.

§1655. All infractions against military discipline shall be punished as Courts Martial may direct.

§1656. General Courts Martial, in time of peace, may impose the punishment of fine not exceeding fifty dollars and (or) dishonorable dismissal from National Guard, in the case of officers and enlisted men not on active service, when found guilty of any offense named in this Act, or of any violation of any regulation promulgated by the Commander-in-Chief. And in case of officers and enlisted men on active service, such Courts may punish by fine not exceeding one hundred dollars and imprisonment until such fine is paid, and (or) by imprisonment not exceeding twelve months, and (or) by dishonorable dismissal from the service.

§1657. In time of war, General Courts Martial or Military Commissions may impose the penalty of death, and may impose all penalties authorized by law for offenses which may be tried by such Courts Martial or Military Commission and may impose a fine not exceeding five hundred dollars and (or) imprisonment at hard labor not exceeding five years, in all cases not otherwise provided for.

§1658. Regimental or Garrison Courts Martial in time of peace may impose punishment by fine not exceeding ten dollars,

HH

and (or) dishonorable dismissal from the National Guard in case of enlisted men not on active service, and in case of enlisted men on active service by fine not exceeding forty dollars and (or) by imprisonment not exceeding one month; and in time of war, by fine not exceeding one hundred dollars and (or) imprisonment not exceeding three months, and (or) by dishonorable dismissal from the National Guard.

§1659. It shall be the duty of the Marshal or his Deputy, whenever so required by the order of the Commander-in-Chief of the Military Forces, or by the Precept or Mandate of the President, and upon and in conformity therewith, to execute and carry out the sentence of any Military Commission or Court Martial convened, or to be convened, in the manner and at the time and place designated in the order approving the findings and proceedings of and confirming or modifying the sentence imposed by such Military Commission or Court Martial.

§1660. Any jail or prison of the Republic or other place designated by the President or Commander-in-Chief may be used as a place of imprisonment or detention of any person convicted and sentenced to imprisonment by any such Commission or Court Martial.

NOTE TO CHAPTER 98.

§§1641-1658 are S. L. 1895, Act 20, §§22-39.  
§§1659-1660 are L. R. Act 18.

## CHAPTER 99.

## SAILING REGULATIONS.

§1661. It shall be the duty of all masters of Hawaiian vessels to observe and enforce on board the vessels under their command the several rules and regulations contained in the schedule hereto.

## SCHEDULE.

## STEAM AND SAIL VESSELS.

ARTICLE 1. In the following rules every steamship which is under sail, and not under steam, is to be considered a sailing ship, and every steamship which is under steam, whether under sail or not, is to be considered a ship under steam.

## LIGHTS.

ARTICLE-2. The lights mentioned in the following articles numbered three, four, five six, seven, eight, nine, ten and eleven, and no others, shall be carried in all weathers, from sunset to sunrise.

## LIGHTS FOR STEAMERS.

ARTICLE 3. A sea-going steamship, when under way shall carry:

(a) On or in front of the foremast at a height above the hull of no less than twenty feet, and if the breadth of the ship exceeds twenty feet, then at a height above the hull not less than such breadth, a bright white light, so constructed as to show a uni-

form and unbroken light over an arc of the horizon of twenty points of the compass, so fixed as to throw the light ten points on each side of the ship, namely, from right ahead to two points abaft the beam on either side, and of such a character as to be visible on a dark night, with a clear atmosphere, at a distance of at least five miles.

(b) On the starboard side a green light, so constructed as to show a uniform and unbroken light over an arc of the horizon of ten points of the compass, so fixed as to throw the light from right head to two points abaft the beam on the starboard side, and of such a character as to be visible on a dark night, with a clear atmosphere, at a distance of at least two miles.

(c) On the port side a red light so constructed as to show a uniform and unbroken light over an arc of the horizon of ten points of the compass, so fixed as to throw the light from right ahead to two points abaft the beam on the port side, and of such a character as to be visible on a dark night, with a clear atmosphere, at a distance of at least two miles.

(d) The said green and red side-lights shall be fitted with inboard screens projecting at least three feet forward from the light, so as to prevent these lights from being seen across the bow.

#### LIGHTS FOR TOWING STEAMERS.

ARTICLE 4. A steamship when towing another ship, shall, in addition to her side-lights, carry two bright white lights in a vertical line, one over the other, not less than three feet apart, so as to distinguish her from other steamships. Each of these lights shall be of the same construction and character, and shall be carried in the same position as the white light which other steamships are required to carry.

#### VESSELS NOT UNDER COMMAND.

ARTICLE 5. (a) A ship, whether a steamship or sailing ship, which from any accident is not under command, shall at



night carry, in the same position as the white light which steamships are required to carry, and if a steamship in place of that light, three red lights in globular lanterns, each not less than ten inches in diameter, in a vertical line, one over the other, not less than three feet apart, and of such a character as to be visible on a dark night, with a clear atmosphere, at a distance of at least two miles, and shall by day carry in a vertical line, one over the other, not less than three feet apart, in front of, but not lower than her foremast head, three black balls or shapes, each two feet in diameter.

#### VESSELS LAYING TELEGRAPH CABLES.

(b) A ship, whether a steamship or sailing ship, employed in laying or in picking up a telegraph cable, shall at night carry in the same position as the white light which steamships are required to carry, and if a steamship, in place of that light, three lights in globular lanterns, each not less than ten inches in diameter, in a vertical line, over one another, not less than six feet apart. The highest and lowest of these lights shall be red, and the middle light shall be white, and they shall be of such a character that the red lights shall be visible at the same distance as the white light. By day she shall carry, in a vertical line, one over the other, not less than six feet apart, in front of but not lower than her foremast head, three shapes not less than two feet in diameter, of which the top and bottom shall be globular in shape and red in color, and the middle one diamond in shape and white.

#### WHEN TO CARRY SIDE LIGHTS.

(c) The ships referred to in this article, when not making any way through the water, shall not carry the side lights, but when making way shall carry them.

(d) The lights and shapes required to be shown by this article are to be taken by other ships as signals that the ship showing

them is not under command, and cannot therefore get out of the way. The signals to be made by ships in distress, and requiring assistance, are contained in article twenty-seven.

#### LIGHTS FOR SAILING VESSELS.

ARTICLE 6. A sailing ship under way, or being towed, shall carry the same lights as are provided by article three for a steamship under way, with the exception of the white light, which she shall never carry.

#### EXCEPTIONAL LIGHTS FOR SMALL VESSELS.

ARTICLE 7. Whenever, as in the case of small vessels during bad weather, the green and red side lights cannot be fixed, these lights shall be kept on deck, on their respective sides of the vessel, ready for use, and shall, on the appearance of or to other vessels be exhibited on their respective sides in sufficient time to prevent collision, in such manner as to make them most visible, and so that the green light shall not be seen on the port side, nor the red light on the starboard side. To make the use of these portable lights more certain and easy, the lanterns containing them shall each be painted outside with the color of the light they respectively contain, and shall be provided with proper screens.

#### LIGHTS FOR STEAM VESSELS AND SAILING VESSELS AT ANCHOR.

ARTICLE 8. A ship, whether a steamship or a sailing ship, when at anchor, shall carry where it can best be seen, but at a height not exceeding twenty feet above the hull, a white light, in a globular lantern of not less than eight inches in diameter, and so constructed as to show a clear, uniform, and unbroken light, visible all round the horizon at a distance of at least one mile.

## LIGHTS FOR PILOT VESSELS.

ARTICLE 9. A pilot vessel, when engaged on her station on pilotage duty, shall not carry the lights required for other vessels, but shall carry a white light at the mast-head, visible all round the horizon, and shall also exhibit a flare-up light or (a) flare-up lights at short intervals, which shall never exceed fifteen minutes. A pilot vessel, when not engaged on her station on pilotage duty, shall carry lights similar to those of other ships.

## LIGHTS FOR OPEN BOATS AND FISHING VESSELS.

ARTICLE 10. Open boats and fishing vessels of less than twenty tons net register tonnage, when under way, and not having their nets, trawls, dredges, or lines in the water, shall not be obliged to carry the colored side lights; but every such boat and vessel shall in lieu thereof have ready at hand a lantern with a green glass on the one side and a red glass on the other side, and on approaching or being approached by another vessel, such lantern shall be exhibited in sufficient time to prevent collision, so that the green light shall not be seen on the port side, nor the red light on the starboard side.

The following portion of this article applies only to fishing vessels and boats when in the sea off the coast of Europe lying north of Cape Finisterre.

(a) All fishing vessels and fishing boats of twenty tons net registered tonnage or upwards when under way, and when not having their nets, trawls, dredges or lines in the water, shall carry and show the same lights as other vessels under way.

(b) All vessels when engaged in fishing with drift-nets shall exhibit two white lights from any part of the vessel where they can best be seen. Such lights shall be placed so that the vertical distance between them shall be not less than six feet, and not more than ten feet, and so that the horizontal distance between them, measured in a line with the keel of the vessel, shall be not less than five feet, and not more than ten feet. The

lower of these two lights shall be the more forward, and both of them shall be of such a character and contained in lanterns of such construction as to show all round the horizon on a dark night, with a clear atmosphere, for a distance of not less than three miles.

(c) All vessels when trawling, dredging or fishing with any kind of drag nets, shall exhibit, from some part of the vessel where they can be best seen, two lights. One of these lights shall be red and the other shall be white. The red light shall be above the white light, and shall be at a vertical distance from it of not less than six feet, and not more than twelve feet; and the horizontal distance between them, if any, shall not be more than ten feet. These two lights shall be of such a character and contained in lanterns of such construction as to be visible all round the horizon on a dark night, with a clear atmosphere, the white light to a distance of not less than three miles, and the red light of not less than two miles.

(d) A vessel employed in line-fishing, with her lines out, shall carry the same lights as a vessel when engaged in fishing with drift-nets.

(e) If a vessel, when fishing with a trawl, dredge, or any kind of drag-net becomes stationary in consequence of her gear getting fast to a rock or obstruction, she shall show the light and make the fog-signal for a vessel at anchor.

(f) Fishing vessels and open boats may at any time use a flare-up in addition to the lights which they are by this Article required to carry and show. All flare-up lights exhibited by a vessel when trawling, dredging, or fishing with any kind of drag-net, shall be shown at the after part of the vessel, excepting that if the vessel is hanging by the stern to her trawl, dredge, or drag-net, they shall be exhibited from the bow.

(g) Every fishing vessel and every open boat when at anchor between sunset and sunrise shall exhibit a white light, visible all round the horizon at a distance of at least one mile.

(*h*) In a fog a drift-net vessel attached to her nets, and a vessel when trawling, dredging, or fishing with any kind of drag-net, and a vessel employed in line-fishing with her lines out, shall, at intervals of not more than two minutes, make a blast with her fog-horn and ring her bell alternately.

## VESSELS BEING OVERTAKEN.

ARTICLE 11. A ship which is being overtaken by another shall show from her stern to such last-mentioned ship a white light or a flare-up light.

## SOUND SIGNALS FOR FOG, ETC.

ARTICLE 12. A steamship shall be provided with a steam-whistle or other efficient steam sound signals, so placed that the sound may not be intercepted by any obstructions, and with an efficient fog-horn, to be sounded by a bellows or other mechanical means, and also with an efficient bell. (In all cases where the regulations require a bell to be used, a drum will be substituted on board Turkish vessels.) A sailing ship shall be provided with a similar fog-horn and bell. In fog, mist, or falling snow, whether by day or night, the signals described in this Article shall be used as follows, that is to say:

(*a*) A steamship under way shall make with her steam-whistle or other steam-sound signal, at intervals of not more than two minutes, a prolonged blast.

(*b*) A sailing ship under way shall make with her fog-horn, at intervals of not more than two minutes, when on the starboard tack one blast, when on the port tack two blasts in succession, and when with the wind abaft the beam three blasts in succession.

(*c*) A steamship and a sailing ship when not under way shall, at intervals of not more than two minutes, ring the bell.

## SPEED OF SHIPS TO BE MODERATE IN FOG, ETC.

ARTICLE 13. Every ship, whether a sailing ship or a steamship, shall, in a fog, mist, or falling snow, go at a moderate speed.

## STEERING AND SAILING RULES.

## SAILING VESSELS.

ARTICLE 14. When two sailing ships are approaching one another so as to involve risk of collision, one of them shall keep out of the way of the other as follows, namely:

(a) A ship which is running free shall keep out of the way of a ship which is close-hauled.

(b) A ship which is close-hauled on the port tack shall keep out of the way of a ship which is close-hauled on the starboard tack.

(c) When both are running free with the wind on different sides, the ship which has the wind on the port side shall keep out of the way of the other.

(d) When both are running free, with the wind on the same side, the ship which is to windward shall keep out of the way of the ship which is to leeward.

(e) A ship which has the wind aft shall keep out of the way of the other ship.

## STEAM VESSELS MEETING.

ARTICLE 15. If two ships under steam are meeting end on, or nearly end on, so as to involve risk of collision, each shall alter her course to starboard, so that each may pass on the port side of the other. This Article only applies to cases where ships are meeting end on or nearly end on in such a manner as to involve risk of collision, and does not apply to two ships which must, if both keep on their respective courses, pass clear of each

other. The only cases to which it does apply are when each of the two ships is end on, or nearly end on, to the other; in other words, to cases in which by day each ship sees the masts of the other in a line, or nearly in a line, with her own, and by night to cases in which each ship is in such a position as to see both the side lights of the other. It does not apply by day to cases in which a ship sees another ahead crossing her own course, or by night to cases where the red light of one ship is opposed to the red light of the other, or where the green light of one ship is opposed to the green light of the other, or where a red light without a green light, or a green light without a red light, is seen ahead, or where both green and red lights are seen anywhere but ahead.

#### TWO STEAMERS CROSSING.

ARTICLE 16. If two ships under steam are crossing so as to involve risk of collision, the ship which has the other on her own starboard side shall keep out of the way of the other.

#### STEAMSHIPS TO KEEP OUT OF WAY OF SAILING VESSELS.

ARTICLE 17. If two ships, one of which is a sailing ship and the other a steamship, are proceeding in such directions as to involve risk of collision, the steamship shall keep out of the way of the sailing ship.

#### STEAM VESSEL APPROACHING ANOTHER VESSEL.

ARTICLE 18. Every steamship, when approaching another ship so as to involve risk of collision, shall slacken her speed, or stop and reverse if necessary.

#### SIGNALS OF STEAMERS SHOWING COURSE.

ARTICLE 19. In taking any course authorized or required by these regulations, a steamship under way may indicate that

course to any ship which she has in sight by the following signals on her steam-whistle, namely: One short blast to mean "I am directing my course to starboard;" two short blasts to mean "I am directing my course to port;" three short blasts to mean "I am going full speed astern." The use of these signals is optional, but if they are used the course of the ship must be in accordance with the signal made.

#### VESSEL OVERTAKING ANOTHER.

ARTICLE 20. Notwithstanding anything contained in any preceding Article, every ship, whether a sailing ship or a steamship, overtaking any other shall keep out of the way of the overtaken ship.

#### STEAMER IN NARROW CHANNEL.

ARTICLE 21. In narrow channels every steamship shall, when it is safe and practicable, keep to that side of the fairway or mid-channel which lies on the starboard side of such ship.

#### RIGHT OF WAY.

ARTICLE 22. Where by the above rules one of the two ships is to keep out of the way, the other shall keep her course.

#### SPECIAL CIRCUMSTANCES AND DANGERS.

ARTICLE 23. In obeying and construing these rules, due regard shall be had to all dangers of navigation, and to any special circumstances which may render a departure from the above rules necessary in order to avoid immediate danger.

#### NO SHIP UNDER ANY CIRCUMSTANCES TO NEGLECT PROPER PRECAUTIONS.

ARTICLE 24. Nothing in these rules shall exonerate any ship, or the owner, or master, or crew thereof, from the consequences of any neglect to carry lights or signals, or of any



neglect to keep a proper lookout, or of the neglect of any precaution which may be required by the ordinary practice of seamen, or by the special circumstances of the case.

#### RESERVATION OF RULES FOR HARBOR AND INLAND NAVIGATION.

ARTICLE 25. Nothing in these rules shall interfere with the operation of a special rule, duly made by local authority, relative to the navigation of any harbor, river, or inland navigation.

#### SPECIAL LIGHTS FOR SQUADRONS AND CONVOYS.

ARTICLE 26. Nothing in these rules shall interfere with the operation of any special rules made by the Government of any nation with respect to additional station and signal lights for two or more ships of war, or for ships sailing under convoy.

#### DISTRESS SIGNALS.

ARTICLE 27. When a ship is in distress, and requires assistance from other ships or from the shore, the following shall be the signals to be used or displayed by her, either together or separately, that is to say:

#### IN THE DAY TIME.

1. A gun fired at intervals of about a minute.
2. The international code signal of distress indicated by N. C.
3. The distant signal, consisting of a square flag, having either above or below it a ball, or anything resembling a ball.

#### AT NIGHT.

1. A gun fired at intervals of about a minute.
2. Flames on the ship (as from a burning tar-barrel, oil-barrel, and so forth).

3. Rockets or shells throwing stars of any color or description, fired one at a time, at short intervals.

NOTE TO CHAPTER 99.

§1661 is S. L. 1886, Ch. 68.

Cases in Hawaiian Reports: *The Jennie Walker*, 6 Haw. 404; *Pacific Nav. v. Allen*, 7 Haw. 12; *Re Tai Wo Chan*, 9 Haw. 508.

## CHAPTER 100.

## REGISTRATION OF CO-PARTNERSHIPS.

§1662. Whenever any two or more persons shall carry on business in this Republic in co-partnership, it shall be incumbent for such persons to file in the office of the Minister of the Interior a statement of:

1. The names and residences of each of the members of such co-partnership.
2. The nature of the business of such co-partnership.
3. The firm name of co-partnership, and
4. The place or places of business of the co-partnership.

§1663. All persons who at the time of the commencement of this Act, shall be carrying on business in co-partnership, shall within two months of the time of the commencement of this Act, cause such statement as aforesaid to be filed in the office of the Minister of the Interior.

§1664. Whenever any change shall take place in the constitution of any such firm by the death or withdrawal of any member thereof, or by the addition of any member thereto, or by the dissolution thereof, a statement of such change or dissolution shall also be filed in the said office of the Minister of the Interior, within one month from such change, death or dissolution, as the case may be.

§1665. All such statements as are required to be made by the preceding sections shall also be published by the members of each co-partnership at least twice in the Hawaiian and English languages, in two newspapers published in Honolulu.

544 REGISTRATIONS OF CO-PARTNERSHIPS.

§1666. The Minister of the Interior shall cause a book to be kept in his office, in which shall be recorded the several particulars hereinbefore required to be filed in his office; and which book shall be open for public inspection on payment of a fee of twenty-five cents for each inspection.

§1667. There shall be paid to the Minister of the Interior a fee of fifty cents for each name so recorded as aforesaid.

§1668. The members of every co-partnership who shall neglect or fail to comply with the provisions of this law, shall severally and individually be liable for all the debts and liabilities of such co-partnership and may be severally sued therefor, without the necessity of joining the other members of the co-partnership in any action or suit, and shall also severally be liable upon conviction, to a penalty not exceeding five dollars for each and every day while such default shall continue; which penalties may be recovered in any District Court.

§1669. Nothing in this Act contained shall be deemed or construed to apply to corporations or incorporated companies.

§1670. All fees received by virtue of this Act shall be accounted for as part of the revenue of the Hawaiian Government.

NOTE TO CHAPTER 100.

§§1662-1670 are S. L. 1880, Ch. 28; C. L. p. 648.

## CHAPTER 101.

## QUARANTINE OF ANIMALS.

WHEREAS, with the importing of live stock from foreign countries, several diseases hitherto unknown in the Hawaiian Islands have been introduced in this country which have spread abroad, whereby much valuable stock has been destroyed and large loss entailed on the owners thereof, and no specific regulations exist, or laws provide for the protection therefrom; therefore,

*Be it Enacted, etc.:*

§1671. The Minister of the Interior is hereby authorized and directed to establish on each of the Islands of the Republic having Ports of Entry a quarantine station or stations for animals.

§1672. The Minister of the Interior is hereby authorized to appoint three competent persons for each port of entry of the Republic, who shall be designated "Boards of Inspectors of Animals," and from time to time, when such offices, for any reason shall become vacant, to re-appoint competent persons to fill the same. One of the three appointed on each Board shall be designated as the Executive Inspector. Such officers for the purposes of this Act, shall possess all the powers, rights, privileges and immunities of Customs Officers, or officers acting under the Board of Health, and it shall be their duty to cause the various quarantine stations to be kept clean and properly fitted for use.

§1673. The master of any vessel on which there shall have been shipped live animals for any port in this Republic shall immediately, upon arrival, notify the Customs Officers of such fact, and said officers shall at once cause the inspecting officers to be notified, and shall not permit the animals to be taken from the wharf or landing, nor of any portion of the food or water, nor of any effects connected therewith or provided for their use during the voyage, to be removed from the wharf or landing until the Inspecting Officer shall have inspected and passed the same.

§1674. All live animals except such birds and small animals as shall be especially exempted by the Inspecting Officer, shall be subject, on arrival in this Republic from any foreign port or country, to be quarantined at the expense of the owner or consignee thereof, in such places as shall be appointed by the Minister of Interior, for a period of not less than thirty days, and for such longer period as shall be deemed necessary by the Board of Inspectors on account of the presence of any contagious disease or distemper, or because the port or country whence such animals are brought is affected with such disease or distemper, or for any other good and sufficient reason having reference to the public good. Whenever, after careful examination and attention the Inspecting Officer shall find that such animal or animals are infected with any disease or distemper of a nature dangerous to the live stock of the country, he shall report the same to the Board of Inspectors, and if the majority of the Board of Inspectors shall decide that the public interests require, they shall cause such animal to be utterly destroyed; said Board of Inspectors may also cause all the food and other effects connected with such animals, independently of the animals themselves, to be destroyed.

§1675. Live animals passing between the different islands of the Republic may be quarantined as set forth in Section 1673, either at the port of shipment or delivery, on good cause shown

to the Inspecting Officer of the port of entry nearest to the port of shipment or delivery.

§1676. The Minister of the Interior, notwithstanding anything in this Act, may from time to time, by proclamation declaring any port or country to be infected, absolutely prohibit the introduction of any animals therefrom until the restriction be removed.

§1677. All imported animals, fodder, fittings, or effects landed contrary to the provisions of this Act, or taken or removed from quarantine until duly discharged, shall be forfeited to the use of the Hawaiian Government; and all animals brought into such quarantine grounds, or placed with any animals under quarantine, shall be deemed to come under the provisions hereof, and shall be subject to all the conditions of the same.

§1678. It shall be the duty of every person to report immediately to the nearest Executive Inspector or Inspecting Officer any animal on or about his own premises or the premises of another, which he shall have reason to believe to be affected with any infectious or contagious disease or distemper, under a penalty of not less than five nor more than one hundred dollars for each offense.

§1679. Said Inspecting Officers shall have the power to enter upon any premises where they have reason to believe there is any animal affected with any infectious or contagious disease or distemper of a nature dangerous to the live stock of the country, and to cause any such animal to be placed in quarantine for such time as said officer may deem necessary. And shall have the power with the approval of the majority of said Board, to cause any such animal to be destroyed.

§1680. Any and all persons knowingly and willfully violating any of the provisions of this Act, or assisting in so doing, or

who shall purchase, take and carry away any animals, fodder, effects or fittings connected therewith before the same shall have been discharged by the Inspecting Officer, or shall knowingly and willfully have in possession any of the same, or shall impede or refuse to allow said inspecting officer to perform his duty, then such person or persons shall be liable to imprisonment at hard labor for any period not over six months, or to a fine not over five hundred dollars, or both, and all such offenses may be tried before any District Magistrate.

§1681. There shall be collected from the owner or consignee of animals inspected under this Act, one dollar per head for all horses, mules and cattle; fifty cents per head for all sheep and goats; ten cents each for every other animal or bird, and when from the nature of the case, the making of such inspection shall be unusually onerous or severe, twenty-five per cent. additional shall be paid to the Inspector.

All fees collected shall belong to the officer making the inspection, and shall be full compensation for his services for such inspection.

§1682. The several Executive Inspecting Officers of the Republic shall keep regular records of the proceedings of their respective Boards, and shall semi-annually make a full and detailed report of their transactions, including an account of their receipts and expenses, to the Minister of the Interior, who shall lay the same before the Legislature.

§1683. All reasonable expenses incurred in placing any diseased animals in quarantine and of feeding and caring for the same, including medical treatment, while in quarantine, shall be paid by the owner or consignee of such animals.

§1684. Any Executive Inspector appointed under this Act may sue in his own name, or the majority of any of said Boards may sue in the name of such Board any such owner or consignee,



who shall refuse or neglect to pay the fees or expenses mentioned in this Act; or may in his, or their discretion, hold any animal for which the fees and expenses have not been paid after demand, and after five days public notice, sell the same at public auction (provided such animal be not affected with any infectious or contagious disease or distemper), and from the proceeds of such sale the Executive Inspector or majority of such Board may retain a sufficient amount to cover the fees and all expenses incurred, and the balance pay over to the owner or consignee of the animal thus sold.

§1685. The Minister of the Interior shall, from time to time, make and publish such rules and regulations as shall be necessary for the more efficient carrying into effect the provisions of this Act.

NOTE TO CHAPTER 101.

§1671, §1673, §1674, §1678, §1679 and §§1681-1684 are S. L. 1884, Ch. 29.  
§1672 is S. L. 1892, Ch. 23.  
§§1675-1677, §1680 and §1685 are S. L. 1882, Ch. 34; C. L. p. 685.



# INDEX.

## A

	PAGE.
<b>ABDUCTION.</b>	
Definition . . . . .	73
Penalty . . . . .	73
Presumptions . . . . .	73
<b>ABORTION.</b>	
Justification . . . . .	75
Penalty . . . . .	75
<b>ABSENCE OF PRESIDENT.</b>	14
<b>ACCESSORIES.</b>	
After the fact. . . . .	198
Before the fact. . . . .	59
Definition . . . . .	59
Forgery, Jurisdiction . . . . .	230
<b>MANSLAUGHTER.</b>	
Indictment, requisites of. . . . .	233
<b>MURDER.</b>	
Indictment, requisites of. . . . .	233
Principal need not be indicted. . . . .	231
<b>ACKNOWLEDGMENTS, (See also Agents to Take Acknowledgments).</b>	
Interlineations, erasures or changes. . . . .	427
Labor contracts . . . . .	438
<b>ACCUSED, PRIVILEGE OF.</b>	3
<b>ACQUITTAL, PREVIOUS.</b>	3
<b>ACTING PRESIDENT.</b>	14
<b>AD INTERIM APPOINTMENTS.</b>	11
<b>ADULTERATION OF SPIRITUOUS LIQUORS.</b>	401
<b>ADULTERY.</b>	
Criminal conversation a bar to prosecution. . . . .	78
Definition . . . . .	76
Divorced persons punished for. . . . .	78
Penalty . . . . .	76
Pregnancy not a ground for conviction. . . . .	78
Seduction, action for, a bar to prosecution. . . . .	78
Verdict of fornication. . . . .	248
<b>ADVERTISEMENTS.</b>	
Posting without consent. . . . .	152
<b>ADVISORY COUNCIL.</b>	45
<b>AFFRAY.</b>	
Definition . . . . .	137
Penalty . . . . .	137
<b>AGENTS FOR DISCHARGE OF SEAMEN.</b>	
Bond . . . . .	409
Compensation . . . . .	410
Duties . . . . .	410

	PAGE.
<b>AGENTS TO TAKE ACKNOWLEDGMENTS.</b>	
Ineligible for Legislature.....	17
Records to be kept.....	426
License .....	270
Penalty not keeping record.....	427
<b>AGENTS TO TAKE ACKNOWLEDGMENTS TO LABOR CON- TRACTS .....</b>	437
License .....	270
<b>AGRICULTURE AND FORESTRY.</b>	
Blight .....	513
Coffee, Importation prohibited.....	517
<b>COMMISSIONER OF AGRICULTURE.</b>	
Disbursement of money.....	515
Duties .....	513
Powers .....	513
Rules and regulations.....	514
Condemnation of lands for forests.....	516
Destruction of trees and plants.....	513
Forest roads, protection of.....	517
Forests, preservation of.....	515
Insect pests.....	513
Landing of plants.....	514
Plant diseases.....	513
Preservation of forests.....*	515
<b>AKEEKE.</b>	
Close season.....	468
<b>ALCOHOL.</b>	
Definition .....	253
License .....	253
<b>ALIENS.</b>	
Allegiance owed by.....	61
Classes not allowed to land.....	498
Deportation .....	499
Fishing prohibited.....	463
Inspection .....	498
Jurisdiction of courts and officers.....	500
Misprision of Treason.....	61
Naturalization of.....	7
Penalty for landing prohibited classes.....	498
Penalty for refusing to carry away.....	499
Supervision, Registration and Identification.....	1
Treason may be committed by.....	61
<b>AMENDMENTS TO CONSTITUTION.....</b>	47
<b>ANCHORAGE, (See Port Regulations).</b>	
<b>ANIMALS, (See also Cruelty to Animals).</b>	
Animals not to be driven in the streets.....	111
Brands and marks.....	461
Brands to be registered.....	461
Damage to bridges.....	455
Dead animals not to be left on shore.....	367
Diseased, destruction of.....	546
Dogs, Malicious injury by.....	106
Duty to report diseased animals.....	547
Expenses of quarantine.....	548
Fees for inspection.....	548
Inspecting officers.....	547
Larceny of.....	84

	PAGE.
<b>ANIMALS.—(Continued.)</b>	
<b>MONGOOSE.</b>	
Breeding prohibited.....	472
Extermination . . . . .	472
Number which can be driven over bridge.....	455
Obliterating brand or mark.....	461
Quarantine . . . . .	545
Rabbits, Breeding prohibited.....	471
Trespass . . . . .	461
<b>ANAANA.</b>	
Penalty . . . . .	154
Practice prohibited.....	285
<b>"AND."</b>	
Construction . . . . .	52
<b>ANNEXATION TO UNITED STATES.</b>	13
<b>"ANOTHER."</b>	
Construction . . . . .	53
<b>"ANY," "ANYONE," "ANYBODY."</b>	
Construction . . . . .	53
<b>APPOINTMENTS AD INTERIM.</b>	11
<b>APPRENTICES.</b>	
Action against master.....	434
Arrest of absconding apprentices.....	434
Articles . . . . .	432
Consideration to be paid minor.....	433
Cruelty of master.....	433
Death of master discharges apprentice.....	436
Instruction compulsory.....	433
Misbehavior of.....	435
Woman may be master.....	436
<b>APPROPRIATING POWER.</b>	4
<b>APPROPRIATIONS . . . . .</b>	27
By Council of State.....	38
<b>ARMS OR MUNITIONS OF WAR.</b>	
Search warrant.....	205
<b>ARRAIGNMENT, (See Criminal Procedure).</b>	
<b>ARREST.</b>	
Carrying deadly weapons.....	251
Declaration of officer.....	207
Examination within 48 hours.....	208
Forceable entrance.....	208
Force may be used.....	208
Passport does not prevent.....	420
Security from.....	4
Smugglers, arrest without warrant.....	393
Territorial jurisdiction.....	219
Warrant . . . . .	207
Weapons to be taken.....	208
Without warrant.....	207
<b>ARSON.</b>	
Definition . . . . .	103
Degrees . . . . .	103
<b>MALICIOUS BURNING.</b>	104
Second degree.....	104
<b>Married women may commit.....</b>	105
<b>Penalty . . . . .</b>	103
<b>Presumptions . . . . .</b>	103

	PAGE.
ARTESIAN WELLS.	
Must be capped.....	152
Waste prohibited.....	152
ASSAULT AND BATTERY.	
Dangerous weapons.....	67
Definition . . . . .	67
Foot binding.....	68
Penalty . . . . .	67-68
Penalty under indictment of murder or manslaughter....	63
Public Minister.....	68
Public Officers.....	68
Weapons obviously and imminently dangerous to life.....	68
ASSAULT ON LEGISLATORS.	
Punishment by Legislature.....	19
ASSAULT WITH INTENT TO COMMIT RAPE.	
Penalty . . . . .	73
ASSEMBLY, (See Unlawful Assembly).	
ASSESSORS OF TAXES.	
Appointment and removal.....	14
ASSOCIATIONS, (See Secret Associations).	
ATTEMPTS.	
Definition . . . . .	196
Degrees . . . . .	196
Distinguished from preparation.....	196
Robbery of mail.....	89
Verdict of attempt may be found on indictment for felony or misdemeanor.....	244
ATTORNEY-GENERAL.	
President of Board of Health.....	296
ATTORNEYS-AT-LAW.	
Assignment to defense of felons.....	242
AUCTION.	
Agents . . . . .	259
Auctioneer's record.....	257
Bond for license.....	258
Commissions . . . . .	259
License . . . . .	257
Suit by Auctioneer.....	259
AUDITOR-GENERAL.	
Appointment and removal.....	10
AUTREFOIS ACQUIT.....	3, 54
AWA.	
Auction sale of license.....	257
License . . . . .	256
AWA.	
Protection of young.....	466
AWNINGS.	
Regulation for.....	357
AYES AND NOES.....	18
<b>B</b>	
BAIL.	
Amount . . . . .	210
Appeals . . . . .	209
Attorney-General's consent.....	214
Default . . . . .	212
Definition . . . . .	209
Discharge of prisoner.....	210

# INDEX.

555

	PAGE.
<b>BAIL.</b> —( <i>Continued.</i> )	
Discharge of sureties.....	211
Officers entitled to admit to bail.....	213
Seditious offenses.....	522
Sureties . . . . .	211
When a matter of right.....	213
When taken.....	209
<b>BAGGAGE.</b>	
Passengers . . . . .	381
Search by Customs Officers.....	403
Smuggling in.....	394
<b>BALCONIES.</b>	
Regulation for.....	357
<b>BALLAST.</b>	
Regulations for shipping and discharging.....	367
<b>BANISHMENT, (See Deportation).</b>	
<b>BANKING.</b>	
Definition . . . . .	260
License . . . . .	260
<b>BARLEY.</b>	
48 pounds to the bushel.....	365
<b>BARRATRY.</b>	
Definition . . . . .	425
Penalty . . . . .	425
<b>BATTERY, (See Assault and Battery).</b>	
<b>BEAR BAITING.</b>	
Cruelty to animals.....	107
<b>BENZINE, (See Explosives).</b>	
<b>BICYCLES.</b>	
Lights must be kept burning.....	112
<b>BIGAMY, (See Polygamy).</b>	
<b>BILLIARDS.</b>	
License . . . . .	260
Regulations . . . . .	260
<b>BILLS.</b>	
Certification to other House.....	26
Introduction into Legislature.....	25
Passage . . . . .	25
"Pocket Veto".....	27
Readings . . . . .	25
Re-consideration after Veto.....	26
Signing . . . . .	26
Veto . . . . .	26
<b>BIRDS.</b>	
Close season.....	468
Eggs . . . . .	469
Mynahs may be killed.....	469
Nests . . . . .	469
Ownership of certain wild.....	470
Protection of.....	468
Shooting on private ground prohibited.....	471
<b>BIRTHS.</b>	
Registry of.....	316
Reported by parents.....	318
<b>BLASPHEMY.</b>	
Definition . . . . .	138
Penalty . . . . .	138

	PAGE.
<b>BOARDING HOUSE.</b>	
Conditions of license.....	267
Exemption from license.....	268
License . . . . .	266
Private families exempt.....	268
<b>BOARDING SCHOOLS.</b>	
Intrusion on premises of female boarding schools.....	153
<b>BOARD OF EDUCATION.</b>	
Appointment and removal.....	11
<b>BOARD OF IMMIGRATION.</b>	
Appointment and removal.....	11
<b>BOARD OF HEALTH.</b>	
Abatement of nuisances.....	298
Agents . . . . .	297
Appointment and removal.....	11
Attorney-General, President.....	296
Births, Record of.....	316
Causes of sickness.....	306
Cemetery and burying grounds.....	297
Contagion, Reports of.....	306
Deaths, Record of.....	316
Disbursement of money.....	298
Drainage of land.....	313
Duties . . . . .	296
Dwelling houses, Sanitary condition.....	312
Entry into land.....	300
Expenses of sick immigrants to be recovered from vessel.....	307
Hospitals . . . . .	307
<b>IMPROVEMENT OF LAND</b> .....	313
Loan for improvement.....	315
Laundries . . . . .	310
<b>LEPROSY.</b> Acquisition of land on Molokai.....	332
Arrest of lepers.....	327
Hospitals . . . . .	328
Kokuas . . . . .	329
Permits to treat lepers.....	329
Rules . . . . .	328
Segregation . . . . .	327, 329
Transportation of lepers.....	331
Visitors not allowed.....	328
Marriages, Record of.....	316
Membership . . . . .	296
Nuisances . . . . .	298
Pol, manufacture of.....	310
Publication of regulations.....	297
<b>QUARANTINE.</b> . . . . .	300
Bill of health.....	303
Closing of Ports.....	302
Examination of Master, etc.....	301
Expenses . . . . .	302
Suspension of commerce.....	306
Records . . . . .	298
Regulations . . . . .	297
Sanitary condition of dwelling houses.....	312
Slaughter houses.....	300
Small-pox, Treatment of patients.....	307
Vaccination . . . . .	308



# INDEX.

557

	PAGE.
<b>BOARD OF HEALTH.—(Continued.)</b>	
Violation of regulations.....	297
Wash houses.....	310
<b>BOARD OF PRISON INSPECTORS.</b>	
Appointment and removal.....	11
<b>BOARD OF REGISTRATION, (See Registration, Board of).</b>	
<b>BOATS AND BOATMEN.</b>	
Badges . . . . .	262
License . . . . .	260
Number of license to be painted.....	261
Rate of fare.....	261
<b>BONDS.</b>	
Outstanding, confirmed.....	44
<b>BONDS TO KEEP THE PEACE.....</b>	211
<b>BOWLING ALLEY.</b>	
License . . . . .	260
Regulations . . . . .	260
<b>BRANDS AND MARKS.</b>	
Felonious branding.....	110
Obliterating . . . . .	461
Registry . . . . .	461
<b>BREAKING, (See Burglary).</b>	
<b>BRIBERY.</b>	
Acceptance of bribe.....	122
Electors (See Elections).	
Executive, legislative or judicial officer.....	121
Jurors . . . . .	121
<b>BRIDGES.</b>	
Damage to.....	455
Limit of number of animals.....	455
Rate of speed.....	455
<b>BUILDINGS, FIREPROOF, (See Fireproof Buildings).</b>	
<b>BULL BAITING.</b>	
Cruelty to animals.....	107
<b>BUREAU OF IMMIGRATION, (See Immigration).</b>	
<b>BUREAU OF PUBLIC INSTRUCTION, (See Public Instruction).</b>	
<b>BUREAUS.</b>	
Appointment and removal of heads.....	14
<b>BURGLARY.</b>	
Breaking . . . . .	80
Definition . . . . .	80
Degrees . . . . .	80
Entry essential.....	80
Penalty . . . . .	81
<b>BURNING, (See Arson, Malicious Burning).</b>	
<b>BUTCHER.</b>	
License . . . . .	262-264
Record . . . . .	263
<b>BUSHEL.</b>	
Barley, 48 lbs. . . . .	365
Indian corn, 56 lbs. . . . .	365
Oats, 32 lbs. . . . .	365
Rye, 56 lbs. . . . .	365
Wheat, 60 lbs. . . . .	365

	PAGE.
C	
CABINET . . . . .	13
Advice to President . . . . .	13
Ex-officio members of Legislature . . . . .	16
Power of appointment and removal . . . . .	14
Removal of member . . . . .	11
Reports . . . . .	13
Responsibility . . . . .	13
CABINET MINISTER.	
Declaration of Martial Law . . . . .	12
Habeas Corpus suspended . . . . .	12
CAKE PEDDLING.	
License . . . . .	270
CANDIDATES, (See Elections) . . . . .	479
CAPACITY FOR CRIME.	
Between 7 and 14 years of age . . . . .	57
Compulsion . . . . .	57
Force . . . . .	57
Idiocy . . . . .	57
Intoxication . . . . .	57
Mental derangement . . . . .	57
Under 7 years of age . . . . .	57
CAPITAL PUNISHMENT.	
How inflicted . . . . .	250
Pardon, Effect of . . . . .	250
Persons exempt . . . . .	249
Warrant . . . . .	250
CARGO, (See Vessels).	
CARRIAGES, (See Vehicles and Drivers).	
CARRYING DEADLY WEAPONS.	
Penalty . . . . .	251
Persons authorized . . . . .	251
CATTLE, (See Animals).	
CENSUS.	
Board of Education to make . . . . .	451
Expense of making . . . . .	451
Questions to be answered under penalty . . . . .	451
CHALLENGING APPLICANTS FOR REGISTRATION . . . . .	34
CHALLENGE, (See Duelling) . . . . .	65
CHANGES IN INSTRUMENT.	
Notary Public must note . . . . .	427
CHEATS, (See Gross Cheats).	
CHE FA.	
Penalty for . . . . .	160
CHICKENS.	
Ownership of wild . . . . .	470
CHILDREN, (See Public Instruction).	
Duties toward parents . . . . .	452
CHILD STEALING.	
Definition . . . . .	71
Justification . . . . .	72
Penalty . . . . .	71
Receiving stolen child . . . . .	72
CHINESE.	
Chinese immigrant fund . . . . .	507
Clergymen exempt . . . . .	504

	PAGE.
<b>CHINESE.—(Continued.)</b>	
Conditional permits.....	504
Excluded from Republic.....	504
Identification . . . . .	506
Merchants exempt.....	504
Penalty for entering Republic.....	507
Photographs to be furnished.....	508
Rules and regulations.....	506
Six months' residence permits.....	504
Teachers exempt.....	504
Wages, save part.....	508
<b>CIRCUIT COURT.</b>	
Appointment and removal of judges.....	10
<b>CIGARS AND CIGARETTES.</b>	
License . . . . .	272
<b>CIRCUS.</b>	
License . . . . .	271
<b>CITIZENS' GUARD.</b>	
False personation of.....	101
<b>CITIZENSHIP . . . . .</b>	6
<b>CLERK OF CUSTOMS.</b>	
Health certificate.....	382
<b>COAL.</b>	
Regulations for shipping and discharging.....	367
<b>COASTING TRADE.</b>	
License . . . . .	275
Mails to be carried.....	275
Rules . . . . .	275
Spirituous liquors, Carriage of.....	276
<b>COCK FIGHTING.</b>	
Cruelty to animals.....	107
<b>COFFEE.</b>	
Importation prohibited.....	517
Prevention of coffee leaf disease.....	517
<b>CO-HABITATION.</b>	
Illicit, punished as adultery.....	77
<b>COINS AND CURRENCY.</b>	
Clipping . . . . .	130
<b>COUNTERFEIT . . . . .</b>	130
Jurisdiction. . . . .	231
Penalty . . . . .	131
Definition . . . . .	130
Evidence of counterfeit coins.....	248
Fractional pieces unlawful.....	132
Issuing notes, bills, etc.....	133
Mutilating lawful coins.....	132
Possession of counterfeit coins.....	131
Possession of moulds, patents, dies, etc. . . . .	132
Uttering false coins.....	130
<b>COLLECTOR-GENERAL OF CUSTOMS.</b>	
Appointment and removal.....	14
Bond for Consular certificate.....	378
Certificate of clearance.....	382
<b>CLEARANCE. . . . .</b>	382
Penalty for sailing without.....	384
Consular certificate.....	377
Drawback upon exportation.....	381

	PAGE.
<b>COLLECTOR-GENERAL OF CUSTOMS.—(Continued.)</b>	
Entry of goods.....	374
Examination of imported goods.....	378
Examination of vessels.....	394
Harbor Master, nomination by Collector-General.....	384
Importation of wines or spirits.....	378
Importation of gunpowder, arms, etc. ....	379
Inspection of merchandise.....	378
Inward entry.....	374
Invoices .....	377
List of stores.....	374
Manifest .....	374
Outward entry.....	383
Penalty for not lawfully granting passport.....	420
Penalty for refusing to cancel passport.....	420
Permit to discharge.....	375
Permit to tranship.....	380
Pilots, nomination of.....	386
Search for smuggled goods.....	395
Seizure of smuggled goods.....	395
Suit for violation of revenue.....	396
Transhipment .....	379
Transit entry.....	379
<b>COMMANDER-IN-CHIEF .....</b>	<b>13</b>
<b>COMMERCE, (See Vessels).</b>	
<b>COMMERCIAL TRAVELERS.</b>	
License .....	264
<b>COMMISSIONER OF AGRICULTURE, (See Agriculture and Forestry).</b>	
<b>COMMITMENT, (See Criminal Procedure).</b>	
<b>COMMON NUISANCES.</b>	
Abatement of nuisances.....	299
Advertisement affixed without consent.....	152
Definition .....	142-143
Degrees .....	144
Jurisdiction of courts.....	299
Penalty .....	145
Posters affixed without consent.....	152
Search warrant in case of.....	145
Streets, Obstruction of (See Streets).	
<b>COMPENSATION OF LEGISLATORS.....</b>	<b>20</b>
<b>COMPOUNDING FELONIES.....</b>	<b>120</b>
<b>COMPULSION.</b>	
An excuse for crime.....	57
<b>CONCEALING DEATH OF INFANT.</b>	
Penalty .....	75
<b>CONCEALING FELONIES.....</b>	<b>120</b>
<b>CONSPIRACY.</b>	
Against Republic of Hawaii.....	61
Definition .....	115
Degrees .....	117
Penalty .....	117
Seditious conspiracy.....	519
Trial of conspirators.....	116
<b>CONSTITUTION OF THE REPUBLIC.....</b>	<b>1</b>
Absence of President.....	14
Accused, Privilege of.....	3
Acquittal, Previous.....	3

	PAGE.
<b>CONSTITUTION OF THE REPUBLIC.—(Continued.)</b>	
Acting President.....	14
Ad Interim appointments.....	11
Advisory Council.....	45
Agents to Take Acknowledgments, Ineligible for Legisla- ture . . . . .	17
<b>ALIENS</b> , Naturalization of.....	7
Supervision, registration and identification.....	1
Amendment . . . . .	47
Annexation to United States.....	13
Appointment, President's power.....	10
Appointments ad interim.....	11
Appropriating power.....	4
Appropriations . . . . .	27
Appropriations by Council of State.....	38
Arrest, Security from.....	4
Assault on Legislators, Punishment by Legislature.....	19
Assessors of taxes, Appointment and removal.....	14
Auditor-General, Appointment and removal.....	10
Autrefois acquit.....	3
Ayes and Noes.....	18
<b>BILLS</b> Certification to other House.....	26
Introduction into Legislature.....	25
Passage . . . . .	25
"Pocket Veto".....	27
Readings . . . . .	25
Re-consideration after Veto.....	26
Signing . . . . .	26
Veto . . . . .	26
Board of Education, Appointment and removal.....	11
Board of Health, Appointment and removal.....	11
Board of Immigration, Appointment and removal.....	11
Board of Prison Inspectors, Appointment and removal....	11
Board of Registration, (See Registration).	
Bonds, Outstanding, Confirmed.....	44
Bureaus, Appointment and removal of heads.....	14
<b>CABINET</b> . . . . .	9-13
Ex-officio members of Legislature.....	16
Minister, Declaration of Martial Law.....	12
Minister, Habeas Corpus, Suspended.....	12
Power of appointment and removal.....	14
Advice to President.....	13
Removal of member.....	11
Reports . . . . .	13
Responsibility . . . . .	13
Challenging applicants for Registration.....	34
Circuit Court, Appointment and removal of Judges.....	10
Citizenship . . . . .	6
Collector-General of Customs, Appointment and removal.	14
Commander-in-Chief . . . . .	13
Compensation of Legislators.....	20
Constitution, Supreme Law.....	42
Consular Representatives, Appointment and removal.....	11
Contempt of Legislature, Punishment by Legislature.....	19
Contested Elections, Supreme Court judge.....	17
Conviction, Previous.....	3

JJ

## CONSTITUTION OF THE REPUBLIC.—(Continued.)

COUNCIL OF STATE.....	37
Appropriations by.....	38
Meetings.....	39
Pardons.....	38
Powers.....	38
Qualifications.....	38
Term of Office.....	38
Vacancies.....	38
Crown Land.....	44
Death of President.....	14
Denization.....	8
Diplomatic Representatives, Appointment and removal... ..	11
Diplomatic Representatives of Foreign Governments, Received by President.....	12
Disability of President.....	14
Disqualification of Judges.....	41
Disqualification of Legislators.....	17
District Magistrates, Appointment and removal.....	11
Districts, Senatorial.....	21
Education, Board of. Appointment and removal.....	11
Election of President.....	9
ELECTIONS. (See also Electors).	
General.....	16
Persons qualified to vote.....	18
Representatives, Vote for.....	28
Rules, Promulgated by President.....	37
Senators.....	21
Senators, Vote for.....	30
Special Register for.....	32
Supreme Court, the judge.....	17
ELECTORS. (See also Elections).	
Arrest, Exemption on Election Day.....	28
Persons disqualified.....	18
Qualifications to Vote for Representatives.....	29
Qualifications to Vote for Senators.....	30
Registration of Voters.....	31
Eligibility of Members of Legislature.....	17
Eminent Domain.....	4
Employees of Government, Ineligible for Legislature.....	17
Enacting Clause of Laws.....	25
Ensign.....	5
Executive Council.....	9
Executive Power.....	9
Exemptions of Legislators.....	20
Extra Session of Legislature.....	12
Flag.....	5
Foreign Representatives, Received by President.....	12
Foreigners, Naturalization of.....	7
Former Conviction or Acquittal.....	8
Freedom of Speech and Press.....	2
Freedom, religious.....	1
Government Officers and Employees, Ineligible for Legislature.....	17
Government Officers, Foreign Employment, prohibited....	45
Habeas Corpus.....	2
Habeas Corpus suspended.....	12

# INDEX.

563

	PAGE.
<b>CONSTITUTION OF THE REPUBLIC.—(Continued.)</b>	
Health, Board of, Appointment and removal.....	11
House of Representatives, (See Representatives).	
Immigration, Board of, Appointment and removal.....	11
Impeachment . . . . .	41
Inferior Courts.....	40
Inspectors, Prison, Appointment and removal.....	11
Interpretation . . . . .	46
Involuntary servitude prohibited.....	4
Jeopardy . . . . .	3
Judges of Circuit Court, Appointment and removal.....	10
Judges of Supreme Court, Appointment and removal.....	10
Judicial Power.....	39
Jurors, number, etc., subject to change.....	3
Jury trial inviolable.....	3
<b>LAWS (See also Legislation, Bills).</b>	
Subject to be expressed in title.....	25
Title to express subject.....	25
<b>LEGISLATION. (See also Laws, Bills).</b>	
Appropriations . . . . .	27
Bills, Certification to other House.....	26
Introduction . . . . .	25
Passage . . . . .	25
"Pocket Veto" . . . . .	27
Reading . . . . .	25
Re-consideration after Veto.....	26
Signing . . . . .	26
Veto . . . . .	26
Enacting Clause.....	25
Retrospective Laws.....	28
<b>LEGISLATURE (See also Elections; Legislature; Representa-</b>	
<b>tives, House of; Senate).....</b>	<b>16</b>
Ayes and Noes.....	18
Cabinet ex-officio members.....	16
Compensation of Members.....	20
Consists of Senate and House of Representatives.....	16
Disqualifications of Members.....	17
Eligibility, how proved.....	17
Exemption from arrest.....	20
Exemption from Liability.....	20
Legislation . . . . .	24
Messages from President.....	12
Mileage . . . . .	20
Oath of Office.....	18
Officers and Rules.....	18
Privileges of Members.....	20
Punishment of Members.....	20
Punishment of Offenders.....	19
Quorum . . . . .	19
Salary of Members.....	20
Sessions . . . . .	24
Special Sessions.....	12, 25
Supreme Court, Judge of Elections.....	17
To Elect President.....	10
Letters of Denization.....	8
Lotteries prohibited.....	45
Majority Rule . . . . .	45

## CONSTITUTION OF THE REPUBLIC.—(Continued.)

Marshal, Appointment and removal.....	14
Martial Law .....	12
Meeting, Right of.....	2
Messages to Legislature.....	12
Mileage of Legislators.....	20
Military Forces, Commander-in-Chief.....	13
Military Subject to Law.....	5
Minister, Foreign, Received by President.....	12
Naturalization . . . . .	7
Notaries Public, Ineligible for Legislature.....	17
<b>OATH, Electors.....</b>	<b>46</b>
Jurors .....	46
Legislature .....	46
Officers .....	46
Oath of Office, Legislature.....	18
Offenses, existing.....	42
Office Holders, Continuance in office.....	44
Officers of Government, Ineligible for Legislature.....	17
Officers of Legislature.....	18
Pardons .....	38
Passage of Bills.....	25
Personal Rights .....	1
Petition, Right of.....	2
Postmaster-General, Appointment and removal.....	14
<b>PRESIDENT Advice from Cabinet.....</b>	<b>13</b>
Power of appointment.....	10
Commander-in-Chief .....	13
Convening the Legislature.....	12
Death, Disability or Absence.....	14
Declaration of Martial Law .....	12
Election .....	9
Elections, Promulgation of Rules and Regulations . . .	37
First; Sanford Ballard Dole.....	9
Messages to Legislature.....	12
"Pocket Veto" .....	27
Power of removal.....	11
Qualifications .....	9
Receives Foreign Representatives.....	12
Salary .....	10
Special Sessions of Legislature.....	12
Treaties with Foreign Governments.....	12
Veto power.....	26
Press, Freedom of.....	2
Previous Conviction or Acquittal.....	3
Prison Inspectors, Appointment and removal.....	11
Private property, taken for public use.....	4
Private schools, not to receive public aid.....	45
Privilege of Accused.....	3
Privileges of Legislators.....	20
Process in name of Republic.....	43
Punishment by Legislature.....	19
Punishment of Members of Legislature.....	20
Qualifications of Representatives.....	24
Qualifications of Senators.....	22
Quorum .....	19
Ratification of Treaties.....	12



INDEX.

565

CONSTITUTION OF THE REPUBLIC.—(Continued.)

PAGE.

REGISTER OF VOTERS. (See also Registration, Board of).	
Copies sent to Inspectors.....	35
Correction . . . . .	36
Names . . . . .	35
Registrar of Conveyances, Appointment and removal....	14
REGISTRATION, BOARD OF, Appeal from.....	34
Application . . . . .	32
Appointment . . . . .	31
Challenging . . . . .	34
Committal for Perjury.....	33
Examination of Applicants.....	32
MEETINGS, Notice of.....	35
Time of.....	32
Members . . . . .	31
Perjury of witnesses.....	33
Powers . . . . .	33
Record of Proceedings.....	36
Witnesses . . . . .	33
Registration of Voters.....	31
Religious Freedom.....	1
Removal, President's Power.....	11
Reports from Cabinet.....	13
REPRESENTATIVES. (See also Legislature).	
Apportionment . . . . .	23
Districts . . . . .	23
Impeachment, Proceedings.....	41
Number . . . . .	22
Qualifications . . . . .	24
Qualifications of Electors.....	29
Term of Office.....	22
Vacancies . . . . .	23
Voting, Method.....	28
Reprieves . . . . .	39
REPUBLIC—	
Form and name.....	5
Territory . . . . .	5
Responsibility of Cabinet.....	13
Retrospective Laws.....	28
Revision of Constitution.....	47
Rights of the Person.....	1
Salary of Legislators.....	20
Salary of President.....	10
Search, Security from.....	4
Search Warrant.....	4
Sectarian Schools, not to receive public aid.....	45
Security from Search and Arrest.....	4
SENATE. (See also Legislature).	
Apportionment . . . . .	21
Districts, Senatorial.....	21
Elections . . . . .	21
Impeachment, Court of.....	41
Members . . . . .	20
Number from each district.....	21
Qualifications of Members.....	21
Ratification of Treaties.....	12

	PAGE.
CONSTITUTION OF THE REPUBLIC.—(Continued.)	
SENATE,	
Special Sessions .....	12
Term of Office .....	21
Vacancies .....	21
Senatorial Districts.....	21
SENATORS. Qualification of Electors.....	30
Vote for.....	30
Servitude, involuntary, prohibited.....	4
Schools, Sectarian and Private not to receive public aid..	45
Slavery prohibited.....	4
Special Election, Register of Voters.....	32
Special Sessions of Legislature.....	12
Speech, Freedom of.....	2
Statutes, existing.....	42
Superintendent of Honolulu Water Works, Appointment and removal.....	14
Superintendent of Public Works, Appointment and re- moval .....	14
SUPREME COURT—	
Appeal from Board of Registration.....	34
Appointment and Removal of Judges.....	10
Decisions .....	40
Disqualification of Judges.....	41
Impeachment .....	39
Judge of Elections.....	17
Jurisdiction .....	40
Opinions to the Executive.....	41
Removal .....	39
Term of Office.....	39
Surveyor-General, Appointment and removal.....	14
Tax Assessors, Appointment and removal.....	14
Taxing Power.....	4
Territory of Republic.....	5
Treaties .....	12
Treaties, Existing confirmed.....	44
Trial by Jury inviolable.....	3
Trial, Right of.....	2
United States, Annexation.....	13
Vacancies, Senate .....	21
Veto of President.....	26
Voters, (See Electors).	
Warrant of Search or Arrest.....	4
Water Works Superintendent, Appointment and removal.	14
Witness, no man against himself.....	3
CONSULAR CERTIFICATE.....	377
CONSULAR REPRESENTATIVES.	
Appointment and removal.....	11
CONSTRUCTION OF STATUTE.	
English version governs Hawaiian.....	491
CONTAGION.	
Persons suffering from contagious disease not allowed to land .....	498
CONTEMPT OF COURT.	
Definition .....	122
Indictment not necessary.....	54
Penalty .....	123
Publication of proceedings of court.....	123

# INDEX.

567

	PAGE.
<b>CONTEMPT OF LEGISLATURE.</b>	
Punishment by Legislature.....	19
<b>CONTESTED ELECTIONS.</b>	
Supreme Court, judge.....	17
<b>CONTRACT LABOR, (See Masters and Servants).</b>	
<b>CONTRACT LABORERS, (See Immigration).</b>	
<b>CONTRACT.</b>	
Seamen's contract, when binding.....	412
<b>CONTROL OF PRESS.</b>	
Certificates . . . . .	493
Change of certificate.....	494
Editors' names to be published.....	495
Freedom of Press.....	2
Perjury for false swearing concerning certificate.....	494
Proprietors' names to be published.....	495
Jurisdiction of District Magistrates.....	495
Selling newspapers without certificate.....	494
Suspension of publications for seditious libel.....	520
<b>CONVICTION.</b>	
Necessary before punishment.....	54
Necessary requisites.....	54
Previous . . . . .	3
<b>COURTS MARTIAL.</b>	
Appointment . . . . .	526
Garrison courts martial.....	526
General courts martial.....	526
Powers. . . . .	526
Judge Advocate . . . . .	526
Jurisdiction . . . . .	526, 527
Oath . . . . .	528
Officers, Trial of.....	528
Penalty . . . . .	529
Presentment . . . . .	528
Regimental courts martial.....	526
Spies . . . . .	528
<b>CORONERS.</b>	
Burial of bodies.....	324
Fees of jurors or witnesses.....	324
Jurors . . . . .	322
Inquest . . . . .	322
Subpcena . . . . .	323
Testimony . . . . .	323
Verdict of Jurors.....	324
<b>COSTS.</b>	
Accounts of.....	215
Imprisonment for.....	215
Liability of officer in case of escape.....	216
Property liable.....	216
<b>COUNCIL OF STATE.</b>	37
Appropriations by.....	38
Meetings . . . . .	39
Pardons . . . . .	38
Powers . . . . .	38
Qualifications . . . . .	38
Term of office.....	38
Vacancies . . . . .	38
<b>COUNTERFEITING.</b>	
Definition . . . . .	130

	PAGE.
<b>COUNTERFEITING.—(Continued.)</b>	
Evidence . . . . .	248
Evidence of counterfeit coins . . . . .	248
Fractional pieces unlawful . . . . .	132
Jurisdiction . . . . .	231
Mutilating coin . . . . .	132
Penalty . . . . .	131
Possession of counterfeit coins . . . . .	131
Postage stamps . . . . .	91
Second conviction . . . . .	132
Uttering . . . . .	130
<b>CREW, (See Seamen).</b>	
<b>CRIME.</b>	
Definition . . . . .	52
<b>CRIMINAL JURISDICTION.</b>	
Ambassadors exempt . . . . .	56
<b>CIRCUIT COURTS. Bail.</b> . . . . .	221
Countersigning warrants of District Magistrates . . . . .	219
Felonies . . . . .	222
Territorial jurisdiction . . . . .	220
Warrants of arrest . . . . .	221
Citizens of the Republic . . . . .	56
Counterfeit coins . . . . .	231
<b>DISTRICT MAGISTRATE. Arrest.</b> . . . . .	218
Attendance of witnesses . . . . .	218
Bribery . . . . .	218
Commitment . . . . .	218
Countersigning warrants . . . . .	219
Enlargement on bail . . . . .	218
Examination . . . . .	218
Gross Cheats . . . . .	218
Larceny second degree . . . . .	218
License Laws . . . . .	220
Misdemeanor . . . . .	218
Search Warrant . . . . .	218
Territorial jurisdiction . . . . .	218
Violation of Postal Laws . . . . .	220
Forgery . . . . .	230
Perjury . . . . .	230
Polygamy . . . . .	230
Receiving stolen goods . . . . .	230
Residents of the Republic . . . . .	56
Territorial . . . . .	56
<b>CRIMINAL PROCEDURE.</b>	
Abatement of indictment . . . . .	240
Amendment to indictment . . . . .	238
Arraignment . . . . .	239
Assignment of counsel for defense . . . . .	242
Autrefois convict, How pleaded . . . . .	241
Change of venue . . . . .	231
Counterfeit coin . . . . .	231
Defense . . . . .	242
Discharge without prosecution . . . . .	228
<b>DISTRICT COURTS. Commitment.</b> . . . . .	226
Complaints . . . . .	224
Corporations, procedure against . . . . .	227
Penal Summons . . . . .	225

CRIMINAL PROCEDURE.—(Continued.)

<b>DISTRICT COURTS,</b>	
Service of process.....	225
Summons . . . . .	225
Warrant . . . . .	221
Evidence . . . . .	248
Execution . . . . .	250
Fees not payable by defendant.....	239
Former conviction or acquittal, How pleaded.....	241
<b>INDICTMENT</b>	
Abatement of.....	240
Amendments . . . . .	238
Amendment for variances.....	242
Amendments, Effect of.....	249
Embezzlement . . . . .	234
Failure to prosecute.....	228
Forgery . . . . .	233, 236
Form . . . . .	232
Hawaiian copy to be furnished Hawaiians.....	242
Larceny . . . . .	235
Manslaughter . . . . .	233
Murder . . . . .	233
Necessary when.....	54
Objections to.....	238
Obtaining property by false pretenses.....	233
Omissions . . . . .	232
Ownership of property.....	233
Perjury . . . . .	237
Second offense.....	234
Subornation of perjury.....	237
Time for presenting.....	227
True bill.....	228
Variances . . . . .	242
Joinder of defendants.....	231
Judgment . . . . .	249
Jurisdiction, (See Criminal Jurisdiction).....	230
Jurors' List to be furnished defendant.....	242
Order of proof and debate.....	242
Plea . . . . .	239
Postponement of trial.....	238
Respite of convict.....	249
Second offense, How tried.....	241
Sentence . . . . .	250
Standing mute.....	239
Smuggling . . . . .	399
Variances in indictment.....	242
Venue . . . . .	230
<b>VERDICT.</b> Assault and battery on indictment for man-	
slaughter . . . . .	247
Assault and battery on indictment for murder.....	247
Assault with intent to rob or indictment for robbery..	245
Defense of insanity.....	243
Discharge from felony on trial for misdemeanor.....	244
Embezzlement on indictment for robbery.....	245
Larceny on indictment for obtaining property under	
false pretenses.....	246
Larceny on indictment for embezzlement.....	246
Larceny on indictment for receiving stolen goods....	247

	PAGE.
<b>CRIMINAL PROCEDURE.—(Continued.)</b>	
<b>VERDICT,</b>	
Lesser degree may be found.....	245
Manslaughter on indictment for murder.....	247
Receiving stolen goods on indictment for larceny....	247
Subject to arrest of judgment.....	249
<b>CRIMINALS.</b>	
Landing prohibited.....	498, 500
<b>CROSS EXAMINATION.</b>	
Right of accused to.....	54
<b>CROWN LAND.....</b>	44
<b>CURFEW LAW, (See Night).</b>	
<b>CRUELTY TO ANIMALS.</b>	
Agent of society to act.....	108
Bear baiting.....	107
Bull baiting.....	107
Cock fighting.....	107
Definition.....	107
Definition of terms.....	109
Penalty.....	109
Search warrants, when authorized.....	109
<b>CURLEW.</b>	
Close season.....	469
<b>D</b>	
<b>DEADLY POISONS, (See Poisons).</b>	
<b>DEATH.</b>	
Concealing death of infant.....	75
<b>DEATH OF PRESIDENT.....</b>	14
<b>DEATHS.</b>	
Registry of.....	316
Reported to Registrar.....	319
<b>DEBTS.</b>	
Seamen, not liable for.....	408
<b>DEFINITIONS.</b>	
And.....	52
Another.....	53
Any, anyone, anybody.....	53
Crime.....	52
Felony.....	52
Malice.....	52
Misdemeanor.....	52
Offense.....	52
Or.....	52
Others.....	53
<b>DENIZATION.....</b>	8
<b>DENTISTS.</b>	
Board of Dental Examiners.....	286
Examination.....	286
License.....	286
<b>DEPARTURE OF VESSELS, (See Vessels).</b>	
<b>DEPORTATION.</b>	
<b>DEPOSITIONS,</b>	
Evidence.....	248
May be inspected by defendant.....	248
Seditious offenses.....	521

# INDEX.

571

	PAGE.
<b>DESERTERS.</b>	
Arrest . . . . .	414
Maintenance of . . . . .	414
Security for . . . . .	415
<b>DESERTING CONTRACT LABOR.</b>	
Costs . . . . .	442
Second offense . . . . .	441
<b>DESERTION OF HUSBAND OR WIFE.</b>	
Justification . . . . .	289
Penalty . . . . .	289
Second offense . . . . .	289
Warrant not to be served beyond jurisdiction . . . . .	290
<b>DISEASE OF SHEEP, (See Sheep).</b>	
<b>DISINTERMENT OF BODIES.</b>	
Penalty . . . . .	326
<b>DISORDERLY HOUSE.</b>	
Definition . . . . .	190
Penalty for keeping . . . . .	190
<b>DISORDERLY PERSONS.</b>	
Definition . . . . .	154
Penalty . . . . .	154
<b>DISTRICT MAGISTRATES.</b>	
Coroners, Duties as . . . . .	322
Jurisdiction, (See Criminal Jurisdiction).	
<b>DOCTORS.</b>	
Board of Medical Examiners . . . . .	284
Examination . . . . .	284
Forfeiture of license . . . . .	284
License . . . . .	283
<b>DOG FIGHTING is cruelty to animals . . . . .</b>	107
<b>DOGS.</b>	
Malicious injury by . . . . .	106
<b>DOVE.</b>	
Close season . . . . .	470
<b>DRIVING, (See Riding and Driving).</b>	
<b>DRUGGIST.</b>	
Poison, Sale of . . . . .	481
<b>DRUGS, (See Poisons).</b>	
<b>DRUMMERS.</b>	
License . . . . .	264
<b>DRUNKENNESS, (See Intoxication) . . . . .</b>	57
Penalty . . . . .	137
<b>DUELLING.</b>	
Challenge . . . . .	65
Definition . . . . .	65
Penalty . . . . .	65
Posting . . . . .	65
Seconds . . . . .	65
<b>DWELLING HOUSES.</b>	
Sanitary condition . . . . .	312
<b>DYNAMITE, (See Explosives.)</b>	

## E

<b>ELECTION DAYS.</b>	
Contract laborers released from work.....	440
<b>ELECTIONS.</b>	
<b>FRAUDS, Definition</b> .....	472
Jurisdiction . . . . .	479
Penalty . . . . .	474
<b>MISDEMEANORS, Definition</b> .....	477
Jurisdiction . . . . .	479
Penalty . . . . .	479
<b>EMBASSADORS.</b>	
Not subject to jurisdiction.....	56
<b>EMBEZZLEMENT.</b>	
Definition . . . . .	93
Fire, Goods at.....	342
Government employees.....	93
<b>INDICTMENT, Requisites of</b> .....	234
Three cases . . . . .	236
Letters . . . . .	88
Mitigation . . . . .	94
Penalty . . . . .	93
Verdict of larceny.....	246
<b>EMBRACERY . . . . .</b>	121
<b>ENACTING CLAUSE . . . . .</b>	51
<b>ENTRY, (See Burglary).</b>	
<b>ENTRY OF VESSELS, (See Vessels).</b>	
<b>ERASURES IN INSTRUMENT.</b>	
Notary Public must note.....	427
<b>ESCAPE.</b>	
Prisoner . . . . .	118
Witness . . . . .	118
<b>ESTRAYS.</b>	
Larceny of.....	85
<b>EVIDENCE.</b>	
Depositions . . . . .	248
Deposition may be inspected by defendant.....	248
Counterfeit coins.....	248
Former conviction.....	248
<b>EXAMINATION OF WITNESSES.</b>	
Right of accused to.....	54
<b>EXECUTION, (See Capital Punishment).</b>	
<b>EXHIBITIONS.</b>	
License . . . . .	271
<b>EXPLOSIVES, (See also Gunpowder).</b>	
Containers . . . . .	483
Conveying of.....	484
Discharge from vessels.....	484
Fishing by means of, prohibited.....	466
Importation prohibited.....	361
Jurisdiction of courts.....	490
<b>KEROSENE, Arbitration of disputed test</b> .....	487
Penalty for sale untested.....	488
Safety test.....	486
Liquid explosives.....	483
Marshal to take possession of.....	485



	PAGE.
<b>EXPLOSIVES.—(Continued.)</b>	
Nitro-glycerine, Importation prohibited.....	483
Possession of fish killed by.....	466
Possession with intent to injure.....	489
Rules and regulations.....	485
Safety test.....	484
Storage . . . . .	483
Unlawful use of.....	489
<b>EXPORTATION.</b>	
Examination of export articles.....	420
Export guard.....	430
Penalty for fraudulent.....	429
<b>EXTORTION.</b>	
Definition . . . . .	95
Degrees . . . . .	95
Evidence admissible.....	95
Fishing, by konohiki, penalty.....	465
Penalty . . . . .	96
Public officers.....	96
<b>F</b>	
<b>FALSE IMPRISONMENT.</b>	
Definition . . . . .	71
Penalty . . . . .	71
Presumption . . . . .	71
<b>FALSE PERSONATION.</b>	100
Of officers of Government.....	120
<b>FAN TAN.</b>	
Penalty . . . . .	161
<b>FARO.</b>	
Penalty . . . . .	161
<b>FELONY.</b>	
Definition . . . . .	52
<b>FINES.</b>	
Accounts of.....	215
Accruing to the Government.....	55
Corporations, Property liable upon execution.....	227
Execution for.....	215
Imprisonment for.....	215
Liability of officer in case of escape.....	216
Right of discharge by imprisonment.....	216
<b>FIRE ARMS.</b>	
Exemptions . . . . .	265
License . . . . .	264
Presumption of possession.....	266
<b>FIRE DEPARTMENT OF HONOLULU.</b>	
Blockade at fires.....	339
Board of Commissioners.....	337
Board of Representatives.....	344
Chief Engineer.....	337
Chief Engineer to enforce law of explosives.....	485
Destruction of property.....	340
Embezzlement at fire.....	342
Examination of buildings.....	339
Explosives . . . . .	342
False alarm.....	342

	PAGE.
<b>FIRE DEPARTMENT OF HONOLULU.—(Continued.)</b>	
Fire buckets.....	341
Fire Directors.....	338
Firemen, Duties of.....	339
Fires prohibited.....	340
Free access to adjoining premises.....	341
Injury to apparatus.....	340
Jury firemen, exempt from.....	343
Larceny at fire.....	342
Moneys and accounts.....	343
Purchase of supplies.....	344
<b>FIRE DEPARTMENT OF HILO</b>	
Board of Representatives.....	347
Chief Engineer.....	346
Companies . . . . .	348
Elections . . . . .	345
Explosives . . . . .	350
Fire engines to have right of way.....	350
Fires . . . . .	349
Foreman . . . . .	348
Honolulu fire rules applicable.....	350
Members . . . . .	348
Practice . . . . .	349
<b>FIRE INQUESTS</b> .....	350
Failure of juror or witness to appear.....	350
<b>FIRE PROOF BUILDINGS</b> .....	351
Alterations . . . . .	356
Awnings . . . . .	357
Balconies . . . . .	357
Belt courses.....	357
Construction . . . . .	354
Cornices . . . . .	357
Entabletures . . . . .	357
Fire limits . . . . .	354
Limits . . . . .	353
Openings . . . . .	358
Plans and specifications.....	351
Shades . . . . .	357
Shutters . . . . .	358
<b>FISHERIES.</b>	
Allens not allowed to fish.....	463
Boundaries of Konohiki rights.....	463
Explosives prohibited.....	466
Government fisheries free to the people.....	463
Konohiki, right to.....	463
Tabu by Minister of Interior.....	463
Tabu by Konohiki.....	464
Unlawful exaction of Konohiki.....	465
Use of explosives prohibited.....	466
Young fish taking prohibited.....	466
<b>FOOD, UNWHOLESOME.</b>	
Gross Cheat.....	99
<b>FOOT BINDING.</b>	
Definition . . . . .	69
Penalty . . . . .	69
Self crimination.....	67
<b>FORCE.</b>	
An excuse for crime.....	57

INDEX.

575

	PAGE.
<b>FOREIGN AFFAIRS, MINISTER OF.</b>	
Duties respecting Chinese immigration.....	505, 507
<b>FOREIGNERS.</b>	
Naturalization of.....	7
<b>FOREIGN GOODS.</b>	
License for peddling.....	276
<b>FORESTRY, (See Agriculture and Forestry).</b>	
<b>FORGERY.</b>	
Alterations of writings.....	127
Definition . . . . .	125
Certification by Registrar, Notary Public, etc.....	127
Indictment, Requisites of.....	233
Instruments . . . . .	237
Jurisdiction . . . . .	230
Penalty . . . . .	126
Postage stamps . . . . .	91
Second offense . . . . .	128
Uttering . . . . .	126
<b>FORMER CONVICTION OR ACQUITTAL.</b>	
Bar to subsequent trial.....	199
Constitutional Provisions.....	8, 54
Evidence . . . . .	248
Impeachment, Not bar to criminal prosecution.....	200
When not a bar.....	199
<b>FORNICATION.</b>	
Criminal conversation a bar to prosecution.....	78
Definition . . . . .	77
Penalty . . . . .	74, 77
Seduction, action for, a bar to prosecution.....	78
Sexual intercourse with female under eighteen.....	77
<b>FRAUDULENT EXPORTATION, (See Exportation).</b>	
<b>FREEDOM.</b>	
Religious . . . . .	1
<b>FREEDOM OF SPEECH AND PRESS.....</b>	2
<b>FUGITIVES FROM JUSTICE.</b>	
Landing prohibited.....	498, 500

G

<b>GAMBLING.</b>	
Civil remedies.....	162
Definition . . . . .	160
Paying . . . . .	161
Penalty . . . . .	162
Permitting building to be used for.....	161
Self crimination.....	163
<b>GAME, (See Birds).</b>	
<b>GASOLINE, (See Explosives).</b>	
<b>GIANT POWDER, (See Explosives, Gunpowder).</b>	
<b>GIFT ENTERPRISE.</b>	
Penalty for.....	160
<b>GOOSE.</b>	
Close season.....	470
Ownership of wild.....	470
<b>GOVERNMENT OFFICERS.</b>	
Foreign employment prohibited.....	45

	PAGE.
<b>GOVERNMENT OFFICERS AND EMPLOYEES.</b>	
Ineligible for Legislature.....	17
<b>GROSS CHEATS.</b>	
Definition . . . . .	99
False personation.....	100
False personation of officers of Government.....	120
False weights and measures.....	99
Oleomargarine . . . . .	101
Unwholesome provisions.....	99
<b>GUNPOWDER.</b>	
Action for injury by explosion.....	360
Importation prohibited.....	361
Regulations . . . . .	360
Search for.....	360
Seizure . . . . .	360
<b>H</b>	
<b>HABEAS CORPUS.</b> .....	2
Suspended . . . . .	12
<b>HACKS, (See Vehicles).</b>	
Inspection . . . . .	273
License . . . . .	273
Rules and regulations.....	274
<b>HARBOR MASTER, (See Port Regulations).</b> .....	366, 384
Duties . . . . .	385
Fees . . . . .	385
Seamen, Permit to ship.....	406
Permit for discharge of seamen.....	385
<b>HEALTH, (See Board of Health).</b>	
<b>HIGH SEAS, OFFENSES ON.</b>	
Abandoning seamen.....	194
Assault on crew.....	194
Barratry . . . . .	192
Casting away of vessels.....	192
Mutiny . . . . .	193
Penalty . . . . .	191
Piracy . . . . .	191
Rape . . . . .	191
Wrecking . . . . .	192
<b>HIGHWAYS.</b>	
Forest roads, Protection of.....	517
Road tax, Deduction for mileage.....	454
Refusal to work.....	454
Working out . . . . .	454
<b>HOLIDAYS.</b>	
Contract laborers to observe.....	440
<b>HOMICIDAL OFFENSES.</b>	
Justification in dispersing riots.....	159
<b>MANSLAUGHTER, Definition</b> .....	63
Degrees . . . . .	63
Verdict of assault and battery.....	247
<b>MURDER.</b> . . . . .	62
Burden of proof.....	62
Degrees . . . . .	62
Penalty . . . . .	62
Verdict of assault and battery.....	247
Verdict of manslaughter.....	247

INDEX.

577

	PAGE.
<b>HOUMANAMANA.</b>	
Penalty . . . . .	154
Practice prohibited . . . . .	285
<b>HOOPIOPIO.</b>	
Penalty . . . . .	154
Practice prohibited . . . . .	285
<b>HOOUNAUNA.</b>	
Penalty . . . . .	154
Practice prohibited . . . . .	285
<b>HORSES, (See Animals).</b>	
<b>HOSPITAL.</b>	
Aid to Seamen's Hospital . . . . .	392
Fees for Seamen's Hospital . . . . .	412
<b>HOTEL.</b>	
Conditions of license . . . . .	267
Exemptions from license . . . . .	268
License . . . . .	266
Private families exempt . . . . .	268
<b>HOUSE OF REPRESENTATIVES, (See Representatives).</b>	
<b>HUSBAND AND WIFE.</b>	
Larceny impossible between them . . . . .	86
<b>HUSBAND, DESERTION OF.</b>	
Justification . . . . .	289
Penalty . . . . .	289
Second offense . . . . .	289
Warrant not to be served beyond jurisdiction . . . . .	290

I

<b>IDIOCY.</b>	
Excuse for crime . . . . .	57
<b>IDIOTS.</b>	
Landing of, Prohibited . . . . .	498
<b>IMMIGRATION.</b>	
<b>ALIENS.</b> Classes not allowed to land . . . . .	498
Deportation . . . . .	499
Inspection . . . . .	498
Jurisdiction of courts and officers . . . . .	500
Penalty for landing prohibited classes . . . . .	498
Penalty for refusing to carry away . . . . .	499
Board of, Appointment and removal . . . . .	11
Bureau of Immigration . . . . .	496
<b>CHINESE.</b> . . . . .	504
Chinese immigrant fund . . . . .	507
Clergymen exempt . . . . .	504
Conditional permits . . . . .	504
Excluded from Republic . . . . .	504
Identification . . . . .	506
Merchants exempt . . . . .	504
Penalty for entering Republic . . . . .	507
Photographs to be furnished . . . . .	508
Rules and regulations . . . . .	506
Six months' residence permits . . . . .	504
Teachers exempt . . . . .	504
Wages, Save part . . . . .	508

KK

	PAGE.
<b>IMMIGRATION.—(Continued.)</b>	
<b>CONTRACT LABOR</b> .....	502
Approval of contracts.....	502
Japanese exempt under convention of 1886.....	503
Penalty for importing.....	503
Criminals not allowed to land.....	498, 500
Deported persons not allowed to land.....	501
Fugitives from justice not allowed to land.....	498, 500
Idiots not allowed to land.....	498
Insane persons not allowed to land.....	498
Paupers not allowed to land.....	498, 500
Penalty for disembarking transients.....	497
Persons suffering from loathsome or contagious disease not allowed to land.....	498
Persons without visible means of support not allowed to land.....	498
Publication of rules and regulations.....	496
Rules and regulations.....	496
Stowaways not allowed to land.....	498, 500
Transients.....	497
Vagabonds not allowed to land.....	498, 500
Vagrants not allowed to land.....	498
Visible means of support, Evidence of.....	498
Violation of rules and regulations.....	497
<b>IMPEACHMENT</b> .....	41
No bar to criminal prosecution.....	200
<b>IMPORT DUTIES.</b>	
Rules and regulations.....	401
Wrecked goods liable for.....	424
<b>INCEST.</b>	
Definition.....	77
Penalty.....	77
<b>INDIAN CORN.</b>	
56 pounds to the bushel.....	365
<b>INDICTMENT, (See Criminal Procedure).</b>	
<b>INDUSTRIAL AND REFORMATORY SCHOOL, (See Reform-     atory School).</b>	
<b>INFERIOR COURTS</b> .....	40
<b>INQUESTS OF FIRE</b> .....	350
<b>INSANE PERSONS.</b>	
Landing of, prohibited.....	498
<b>INSANITY.</b>	
Custody of offender found to be insane.....	240
<b>INSPECTORS, PRISON.</b>	
Appointment and removal.....	11
<b>INSTIGATION</b> .....	196
Evidence necessary for conviction.....	197
Merger of offense.....	197
<b>INTERLINEATIONS.</b>	
Notary Public must note.....	427
<b>INTENTIONS.</b>	
Lawless.....	520
Seditious.....	519
<b>INTOXICATION.</b>	
No excuse for crime.....	57
Penalty.....	137
<b>INVOICES, (See Vessels)</b> .....	377
<b>INVOLUNTARY SERVITUDE PROHIBITED</b> .....	4

## J

	PAGE.
<b>JAPANESE.</b>	
Contract laborers exempt under convention of 1886.....	503
<b>JEOPARDY</b> . . . . .	3
(See former conviction or acquittal).	
<b>JUDGES OF SUPREME COURT.</b>	
Appointment and removal.....	10
<b>JUDICIAL POWER</b> .....	39
<b>JURISDICTION, (See Criminal Jurisdiction).</b>	
<b>JURORS.</b>	
Numbers, etc., subject to change.....	3
<b>JURY TRIAL INVIOLEABLE</b> .....	3

## K

<b>KEROSENE, (See also Explosives).</b>	
Bond . . . . .	280
License . . . . .	280
(See Explosives.)	
Test . . . . .	280
<b>KIDNAPPING.</b>	
Definition . . . . .	71
Penalty . . . . .	71
Presumptions . . . . .	71
<b>KOLEA.</b>	
Close season.....	468
<b>KONOHIKI.</b>	
Fisheries, Right to.....	463
Power of Konohiki.....	464
Tabu of fish.....	464
Unlawful exaction of fisheries.....	465
<b>KUKULUAEO.</b>	
Close season.....	468

## L

<b>LARCENY.</b>	
Animals, Subject of.....	84
Definition . . . . .	84
Degrees . . . . .	86
Election of takings by prosecution.....	246
Estrays . . . . .	85
Fire, goods at.....	342
Fixture, Indictment, Form of.....	236
Husband and wife.....	86
Indictment, Requisites of.....	235
Lost property.....	85
Penalty . . . . .	86
Receiving stolen goods, Counts may be joined.....	236
Second conviction.....	86
Stealing from letters.....	87
Subject of larceny.....	84
Three convictions at same term.....	86

	PAGE.
<b>LARCENY.</b> —( <i>Continued.</i> )	
Verdict of embezzlement.....	246
Verdict of lesser degree.....	492
Verdict of receiving stolen goods.....	247
Wrecked property.....	85
Writings, Subject of.....	85
<b>LASCIVIOUS CONDUCT.</b>	
Punishment .....	77
<b>LAUNDRIES.</b>	
Supervision of Board of Health.....	310
<b>LAWS,</b> (See also Legislation, Bills).	
English version governs Hawaiian.....	491
Subject to be expressed in title.....	25
<b>LAY DAYS.</b> .....	376
<b>LECTURE.</b>	
License .....	271
<b>LEGISLATION,</b> (See also Laws, Bills).	
Appropriations .....	27
<b>BILLS,</b> Certification to other House.....	26
Enacting clause.....	25
Introduction .....	25
Passage .....	25
“Pocket Veto” .....	27
Reading .....	25
Re-consideration after Veto.....	26
Retrospective Laws.....	28
Signing .....	26
Veto .....	26
<b>LEGISLATURE,</b> (See also Elections; Legislation; Representa-	
tives, House of; Senate).	
Ayes and Noes.....	18
Cabinet ex-officio members.....	16
Compensation of Members.....	20
Consists of Senate and House of Representatives.....	16
Disqualification of Members.....	17
Eligibility, How proved.....	17
Exemption from arrest.....	20
Exemption from liability.....	20
Legislation .....	24
Messages from President.....	12
Mileage .....	20
Oath of Office.....	16
Officers and Rules.....	18
Privileges of Members.....	20
Punishment of Members.....	20
Punishment of Offenders.....	19
Quorum .....	19
Salary of Members.....	20
Sessions .....	24
Special Sessions.....	12, 25
Supreme Court, Judge of Elections.....	17
To elect President.....	10
<b>LEPROSY.</b>	
Acquisition of land on Molokai.....	332
Arrest of lepers.....	327
Hospitals .....	327
Kokuas .....	329
Permits to treat lepers.....	329



# INDEX.

581

	PAGE.
<b>LEPROSY.—(Continued.)</b>	
Rules . . . . .	328
Segregation . . . . .	327, 329
Transportation of lepers . . . . .	331
Visitors not allowed . . . . .	328
<b>LETTERS.</b>	
Destruction of . . . . .	88
Embezzlement of . . . . .	88
Opening mail bag . . . . .	92
Opening of . . . . .	87
Stealing from . . . . .	87
<b>LETTERS OF INTENTION.</b>	8
<b>LEWD CONVERSATION.</b>	
Punishment . . . . .	77
<b>LIBEL.</b>	
Definition . . . . .	134
Degrees . . . . .	135
Malice . . . . .	134
Penalty . . . . .	135
Publishing . . . . .	134
Seditious libel . . . . .	519
Truth as defense . . . . .	134
<b>LIBIDINOUS SOLICITING.</b>	
Evidence . . . . .	79
Penalty . . . . .	77, 78
<b>LICENSES.</b>	
Agents to acknowledge labor contracts . . . . .	270
Agents to take acknowledgments . . . . .	270
Alcohol . . . . .	253
Auction . . . . .	257
Awa . . . . .	256
Banking . . . . .	260
Beef . . . . .	262
Billards . . . . .	260
Boarding Houses . . . . .	266
Boats and Boatmen . . . . .	260
Bowling Alleys . . . . .	260
Broker . . . . .	256
Butcher . . . . .	262
Cake Peddling . . . . .	270
Carrying passengers between the Islands . . . . .	276
Cigars and Cigarettes . . . . .	272
Circus . . . . .	271
Commercial Travelers . . . . .	264
Coasting Trade . . . . .	274
Dentists . . . . .	286
Doctors . . . . .	283
Drummers . . . . .	264
Exhibitions . . . . .	271
Fee . . . . .	253
Fire Arms . . . . .	264
General Provisions . . . . .	252
Hacks . . . . .	273
Hawaiian Wine . . . . .	187
Hotels . . . . .	266
Importation of Live Stock . . . . .	279
Kerosene . . . . .	280
Lecture . . . . .	271

	PAGE.
<b>LICENSES.—(Continued.)</b>	
Livery Stables.....	266
Live Stock, Importation.....	279
Lodging Houses.....	266
<b>MALT LIQUOR, Brewing</b> .....	185
Sale.....	186
Marriage License.....	278
Medicine and Surgery.....	283
Merchandise.....	268
Methylated Spirits.....	253
Milk.....	269
Notaries Public.....	270
Not transferable.....	253
Pawnbrokers.....	281
Peddling Cake.....	270
Peddling Foreign Goods.....	279
Penalty for doing business without license.....	253
Physicians.....	283
Poisonous Drugs.....	270
Pork.....	264
Public Shows.....	271
Restaurants.....	266
Salmon.....	272
Seal.....	288
Seamen, Shipping of.....	405
Secret Associations.....	511
<b>SPIRITUOUS LIQUORS, Bond</b> .....	174
Brewing of malt liquor.....	185
Distillation.....	166, 170
Forfeiture.....	177-179
Hawaiian wine.....	187
Manufacturing.....	166
Manufacturing.....	170
Penalty.....	176
Presumption of no license.....	180
Presumption of unlawful sale.....	180
Record.....	176
Retail vending.....	173
Sale of.....	186
Wholesale vending.....	171
Wine from Hawaiian grapes.....	187
Stock and Share Business.....	256
Surgeons.....	283
Tenement Houses.....	266
Terms.....	253
Theatre.....	271
Tobacco.....	272
Regulations.....	287
Vehicles and drivers.....	273
Wine from Hawaiian grapes.....	187
<b>LIGHT HOUSES.</b>	
Light dues.....	391
<b>LIGHTS.</b>	
Bicycles to keep burning.....	112
Vehicles to keep burning.....	112
<b>LIVERY STABLE.</b>	
License.....	266

# INDEX.

583

	PAGE.
<b>LIVE STOCK.</b>	
License for importing.....	276
<b>LODGING HOUSE.</b>	
Conditions of license.....	267
Exemptions from license.....	268
Keeper to report contagion to Board of Health.....	306
License . . . . .	266
Private families exempt.....	268.
<b>LOST PROPERTY.</b>	
Larceny of.....	85
<b>LOTTERY.</b>	
Penalty for maintaining.....	160
Prohibited by Constitution.....	45

## M

<b>MAGAZINES, (See Control of Press).</b>	
<b>MAJORITY RULE.....</b>	45
<b>MALICE.</b>	
Definition . . . . .	52
<b>MALICIOUS BURNING.</b>	
Definition . . . . .	104
Degrees . . . . .	104
Penalty . . . . .	104
<b>MALICIOUS INJURY.</b>	
Definition . . . . .	106
Dogs, by.....	106
Indictment, Requisites of.....	233
Penalty . . . . .	106
<b>MANIFEST, (See Vessels).</b>	
<b>MANSLAUGHTER.</b>	
Assault and battery may be found.....	63, 247
Definition . . . . .	63
Degrees . . . . .	63
Duelling is.....	65
High seas, Committed on.....	191
Indictment, Requisites of.....	233
Penalty . . . . .	63
Verdict of assault and battery.....	63, 247
<b>MARKETS.</b>	
Clerk . . . . .	362
Hours . . . . .	363
Inspection of weights and measures.....	363
Rules and regulations.....	363
<b>MARRIAGES.</b>	
Registry of.....	316
Report of marriage license.....	319
Reported to Registrar.....	319
<b>MARRIAGE LICENSES.</b>	
Agents . . . . .	278
<b>MARRIAGE RECORDS.</b>	
Certificates . . . . .	428
Duty to keep.....	428
Records to be delivered up.....	429
<b>MARRIED PERSONS.</b>	
Definition . . . . .	76

	PAGE.
<b>MARRIED WOMEN.</b>	
<b>DESERTION OF HUSBAND OR WIFE.</b> Justification.....	289
Penalty . . . . .	289
Second offense.....	289
Warrant not to be served beyond jurisdiction.....	290
May commit arson and malicious burning.....	105
<b>MARSHAL OF THE REPUBLIC.</b>	
Appointment and removal.....	14
Coroner, Duties as.....	322
Execution of sentences of courts martial.....	530
Prisoners to aid Board of Health.....	307
Reformatory School, Duties as to.....	446, 449
Reports to Board of Health.....	306
<b>MARTIAL LAW.</b> .....	12
Persons deported under martial law not to return.....	501
<b>MASTERS AND SERVANTS.</b>	
Agents to take acknowledgments to Labor Contracts....	437
<b>APPRENTICES.</b> Action against Master.....	434
Arrest of absconding apprentices.....	434
Articles . . . . .	432
Consideration to be paid minor.....	433
Cruelty to.....	433
Death of Master discharges apprentice.....	436
Instruction compulsory.....	433
Misbehavior of.....	435
Woman may be master.....	436
Civil action for damages.....	442
<b>CONTRACTS.</b> Acknowledgment.....	436
Certificate of acknowledgment.....	437
Hawaiian language, must be printed in for Hawaiians	436
Married woman's contract to serve void.....	439
Service for advances prohibited.....	439
Term not to exceed 5 years.....	440
Cruelty as ground for discharge.....	442
Day's labor defined.....	440
Death of Master ends contract.....	442
Deserting contract labor.....	441, 442
Election days to be holidays.....	440
Holidays to be observed.....	440
Marriage of women servants annuls contract.....	439
Partners, Effect of death.....	442
<b>MAYHEM.</b>	
Penalty . . . . .	67
<b>MEDICINE AND SURGERY.</b>	
Board of Medical Examiners.....	284
Examination . . . . .	284
Forfeiture of license.....	284
License . . . . .	283
<b>MEETING.</b>	
Constitutional, Right of.....	2
<b>MENTAL DERANGEMENT.</b>	
Excuse for crime.....	57
<b>MERCHANDISE.</b>	
Application for license to sell.....	268
Bond for Consular certificate.....	378
Certificate of clearance.....	382

	PAGE.
<b>MERCHANDISE.—(Continued.)</b>	
<b>CLEARANCE.</b> .....	382
Penalty for sailing without.....	384
Consular certificate.....	377
Duties .....	375
Entry .....	374
Examination of imported goods.....	378
Forfeiture of license.....	269
Health certificate.....	382
Importation of gunpowder, arms, etc. ....i.....	379
Importation of wines or spirits.....	378
Inspection of merchandise.....	378
Invoices .....	377
License to sell.....	268
Manifest .....	373
Outward entry.....	383
Permit to discharge.....	375
Permit to tranship.....	380
Transhipment .....	379
Transit entry .....	379
<b>MESSAGES TO LEGISLATURE</b> .....	12
<b>METHYLATED SPIRITS.</b>	
License .....	253
<b>MILEAGE OF LEGISLATORS</b> .....	20
<b>MILITARY FORCES.</b>	
Commander-in-Chief .....	13
Subject to law.....	5
<b>MILK.</b>	
Adulterated milk.....	269
License to sell.....	269
<b>MINISTERS, FOREIGN.</b>	
Received by President.....	12
<b>MISDEMEANOR.</b>	
Definition .....	52
<b>MISPRISION OF TREASON.</b>	
Definition .....	60
Penalty .....	60
<b>MONGOOSE.</b>	
Extermination of.....	472
Keeping and breeding prohibited.....	472
<b>MONTE.</b>	
Penalty .....	161
<b>MUD HEN.</b>	
Close season .....	470
<b>MULES, (See Animals).</b>	
<b>MULLET.</b>	
Protection of young.....	466
<b>MURDER.</b>	
Burden of proof.....	62
Death Penalty .....	62
Definition .....	62
Degrees .....	62
Degree to be found by jury.....	62
Dissection of convict.....	62
High seas, On.....	191
Indictment, Requisites of.....	233
Verdict of assault and battery.....	247
Verdict of manslaughter.....	247

	PAGE.
MUTINEERS . . . . .	414
Arrest . . . . .	415
MUTINY . . . . .	193
MYNAH.	
Destruction allowed. . . . .	469
N	
NAPHTHA. (See Explosives).	
NATIVE WILD DUCK.	
Close season . . . . .	470
NATURALIZATION . . . . .	7
NEWSPAPERS, (See Control of Press).	
NIGHT.	
Children prohibited in saloons. . . . .	164
Children prohibited on streets. . . . .	165
Loud noises prohibited. . . . .	164
NITRO-GLYCERINE, (See Explosives).	
NOTARIES PUBLIC.	
Ineligible for Legislature. . . . .	17
Interlineations, erasures or changes, Duties in respect to.	427
License . . . . .	270
Records to be delivered up. . . . .	426
NUISANCE, (See Common Nuisance).	
O	
OATH.	
Electors . . . . .	46
Jurors . . . . .	46
Legislature . . . . .	18, 46
Officers . . . . .	46
OATS.	
32 pounds to the bushel. . . . .	365
OBSCENE LANGUAGE.	
Penalty . . . . .	138
OBSTRUCTING STREETS, (See Streets).	
OBSTRUCTING THE COURSE OF JUSTICE. . . . .	118
Bribing any executive, legislative or judicial officer. . . . .	121
Bribing jurymen. . . . .	121
Compounding felonies. . . . .	120
Concealing testimony. . . . .	121
Contempt of court. . . . .	122
Escape of prisoners. . . . .	119
Intimidation of Legislature. . . . .	121
OBTAINING PROPERTY BY FALSE PRETENSES.	
Indictment, Requisites of. . . . .	233
Verdict of larceny. . . . .	246
OCEAN, (See High Seas).	
OFFENSES.	
Definition . . . . .	52
Existing . . . . .	42
OFFICE HOLDERS.	
Continuance in office. . . . .	44

	PAGE.
OFFICERS OF GOVERNMENT.	
Ineligible for Legislature.....	17
OFFICERS OF LEGISLATURE.....	18
OIL, (See Explosives).	
OLEOMARGARINE.	
Unmarked, is gross cheat.....	101
OPIUM.	
Board of Health may import.....	523
Carrying or removing.....	403
Importation prohibited.....	523
Penalty for possession.....	524
Possession prohibited.....	523
Sale of confiscated opium.....	524
"OR."	
Construction . . . . .	52
"OTHERS."	
Construction . . . . .	53
OXEN, (See Animals).	
P	
PAKAPIO.	
Penalty for.....	160
PARDONS . . . . .	38
PARENTS.	
Rights over children.....	452
PARTNERSHIPS.	
Penalty for non-registration.....	544
Registration of.....	543
PASSAGE OF BILLS.....	25
PASSENGER CARRIERS.	
License . . . . .	276
Number . . . . .	277
Passports for females visiting Oahu.....	277
PASSENGERS.	
Baggage . . . . .	381
PASSPORTS:	
Application . . . . .	418
Arrest takes precedence over.....	420
Bond for indebtedness.....	421
Cancellation . . . . .	419
Minister of Foreign Affairs may grant.....	421
Not granted, When.....	418
Penalty for leaving without.....	420
Penalty for not lawfully granting.....	420
Protest against granting.....	418
Vise of passport.....	421
PAUPERS.	
Landing of, prohibited.....	498, 500
PAWNBROKERS.	
Conditions of license.....	281
License . . . . .	281
Penalty for.....	162
PEA FOWL.	
Ownership of wild.....	470
PERJURY.	
Definition . . . . .	114

	PAGE.
PERJURY.—( <i>Continued.</i> )	
Indictment, Requisites of.....	237
Penalty . . . . .	114
Subornation of perjury.....	114, 237
PERSONAL RIGHTS.....	1
PETITION.	
Right of.....	2
PETROLEUM, (See Explosives).	
PHEASANT.	
Close season . . . . .	470
Ownership of wild.....	470
PHYSICIANS.	
Board of medical examiners.....	284
Examinations . . . . .	284
Forfeiture of license.....	284
License . . . . .	283
Opium, unlawful sale or prescription.....	524
Poisonous prescriptions to be preserved.....	482
Report contagion to Board of Health.....	306
PILOTS.	
Appointment . . . . .	386
Boarding officers . . . . .	390
Boarding ships.....	387
Bond . . . . .	387
Compensation . . . . .	389
Contagion on vessels.....	388
Examination . . . . .	386
Health certificate of incoming vessels.....	388
PIRACY . . . . .	191
PLOVER.	
Close season.....	468
POI.	
Restriction of manufacture.....	311
POISONS.	
Label . . . . .	481
License . . . . .	270
Opium, Sale of.....	271
Prescriptions to be preserved.....	482
Record of sale.....	481
Sale of.....	481
POLICEMEN.	
False personation of.....	101
POLYGAMY.	
Definition . . . . .	76
Jurisdiction . . . . .	230
PORT OFFICERS, (See Pilots).	
PORT REGULATIONS.	
Anchorage . . . . .	366
Ballast, taking on and discharging.....	367
Coal, taking on and discharging.....	367
Combustible materials, Heating of.....	367
Dead animals.....	367
Harbor Master.....	366
Men-of-war exempt from search.....	368
Registry not to be delivered before clearance.....	369
Return of offenders.....	368



	PAGE.
PORT REGULATIONS.—(Continued.)	
Rigging in spars.....	366
Rubbish not to be thrown in harbor.....	367
Search of vessels.....	368
POSTAGE STAMPS.	
Counterfeiting . . . . .	91
Counterfeiting foreign stamps.....	92
POSTAL LAWS.....	87
Cancellation of stamps.....	91
Coasting vessels to carry mail.....	91
Counterfeit stamps.....	91
Destruction of letters.....	88
Embezzlement of letters.....	88
Mail carriers.....	88
Opening letters.....	87
Opening mail bag.....	92
Postmaster, Offense by.....	88
Unstamped mail not to be carried.....	90
Vessels to deliver mail.....	89
POSTERS.	
Affixing without consent.....	152
POSTMASTER-GENERAL.	
Appointment and removal.....	14
POSTPONEMENT OF TRIAL.....	238
POUND MASTER.	
Cruelty in not feeding animals.....	107
POWDER, (See Explosives).	
PRACTICE, (See Criminal Procedure).	
PREGNANCY.	
Not a ground for conviction of adultery or fornication...	78
PRESIDENT . . . . .	9
Advice from Cabinet.....	13
Commander-in-Chief . . . . .	13
Convening the Legislature.....	12
Death, Disability or Absence.....	14
Declaration of Martial Law.....	12
Election . . . . .	9
Elections, Promulgation of Rules and Regulations.....	37
First; Sanford Ballard Dole.....	9
Messages to Legislature.....	12
"Pocket Veto" . . . . .	27
Power of Appointment.....	10
Power of Removal.....	11
Qualifications . . . . .	9
Receives Foreign Representatives.....	12
Salary . . . . .	10
Special Sessions of Legislature.....	12
Treaties with Foreign Governments.....	12
Veto Power.....	26
PRESS. (See also Control of Press).	
Freedom of.....	2
PRESUMPTIONS.	
Abduction . . . . .	73
Arson . . . . .	103
Capacity for crime.....	57
False Imprisonment . . . . .	71
Innocence . . . . .	54

	PAGE.
<b>PRESUMPTIONS.—(Continued.)</b>	
Natural and probable consequence of acts.....	55
Spirituos Liquors.....	180
Seditious Offenses.....	519
<b>PREVIOUS CONVICTION OR ACQUITTAL.....</b>	<b>3</b>
<b>PRINCIPALS.</b>	
Definition . . . . .	59
<b>PRINTS, (See Control of Press).</b>	
<b>PRISONERS.</b>	
Aid in escaping.....	119
Escape . . . . .	118
Rescue of.....	118
To aid Board of Health.....	307
<b>PRISONS.</b>	
Appointment and removal of Inspectors.....	11
Communication of prisoners.....	460
Official visitors.....	460
Visitors . . . . .	460
<b>PRIVATE PROPERTY.</b>	
Taken for public use.....	4
<b>PRIVATE SCHOOLS.</b>	
Not to receive public aid.....	45
<b>PRIVILEGES OF ACCUSED.....</b>	<b>3</b>
<b>PRIVILEGES OF LEGISLATURE.....</b>	<b>20</b>
<b>PRIZE FIGHT.</b>	
Penalty for.....	137
<b>PROCEDURE, (See Criminal Procedure).</b>	
<b>PROCESS IN NAME OF REPUBLIC.....</b>	<b>43</b>
<b>PROFANITY.</b>	
Penalty . . . . .	138
<b>PROTECTION OF PLACES OF SEPULTURE.....</b>	<b>326</b>
<b>PUBLIC HEALTH, (See Board of Health).</b>	
<b>PUBLIC INSTRUCTION, (See also Reformatory School).</b>	
Attendance on school.....	444
Compulsory attendance at school.....	444
Change of schools.....	445
Register of scholars.....	444
Truancy . . . . .	444
<b>PUBLIC SHOW.</b>	
License . . . . .	271
<b>PUNISHMENT.</b>	
By Legislature.....	19
Conviction necessary.....	54
Members of Legislature.....	20
Q	
<b>QUAIL.</b>	
Close season.....	470
Ownership of wild.....	470
<b>QUALIFICATIONS OF REPRESENTATIVES.....</b>	<b>24</b>
<b>QUALIFICATIONS OF SENATORS.....</b>	<b>22</b>
<b>QUARANTINE.</b>	
ANIMALS. . . . .	545
Rules and regulations.....	549
Bill of Health.....	303

# INDEX.

591

PAGE.

<b>QUARANTINE.—(Continued.)</b>	
Certificate of quarantine officers.....	305
Closing of ports.....	302
Destruction of diseased animals.....	546
Examination of master, etc. ....	301
Expenses . ....	302
Expenses of animals quarantined.....	549
Prohibition of importation of animals.....	547
Rules and regulations.....	304
Suspension of commerce.....	306
<b>QUAYS.</b>	
Established by Minister of Finance.....	401
<b>QUORUM .</b> .....	19
<b>R</b>	
<b>RABBITS.</b>	
Keeping and breeding prohibited.....	471
<b>RAPE.</b>	
Competency of prosecuting witness.....	74
Definition of.....	73
High seas, on.....	191
Penalty . ....	73
Verdict of assault with intent to commit rape upon indictment for.....	245
<b>RAFFLING.</b>	
Penalty for.....	160
<b>RATIFICATION OF TREATIES</b> .....	12
<b>RECEIVING STOLEN GOODS.</b>	
Common receiver.....	98
Definition . ....	97
High seas, Offense committed on.....	192
Jurisdiction . ....	230
Larceny may be joined.....	236
Penalty . ....	97
Second conviction.....	98
Three convictions at the same term.....	98
Verdict of larceny.....	247
<b>REFORMATORY SCHOOL.</b>	
Apprentices, Children bound as.....	447
Discharge of inmates.....	448
Establishment . ....	446
Jurisdiction of District Magistrate.....	446
Marshal to deliver children.....	449
Object . ....	446
Penalty for abducting child.....	448
Records . ....	450
Rules and regulations.....	449
Transfer to jail.....	450
<b>REGISTER OF VOTERS, (See also Registration, Board of).</b>	
Copies sent to Inspectors.....	35
Correction . ....	36
Names . ....	35
<b>REGISTRAR OF BIRTHS, DEATHS AND MARRIAGES</b> .....	316
<b>REGISTRAR OF CONVEYANCES.</b>	
Appointment and removal.....	14

	PAGE.
<b>REGISTRATION, BOARD OF.</b>	
Appeal from.....	34
Application . . . . .	32
Appointment . . . . .	31
Challenging . . . . .	34
Committal for perjury.....	33
Examination of Applicants.....	32
MEETINGS, Notice of.....	35
Time of.....	32
Members . . . . .	31
Perjury of witnesses.....	33
Powers . . . . .	33
Record of proceedings.....	36
Witnesses . . . . .	33
<b>REGISTRATION OF PARTNERSHIPS.....</b>	<b>543</b>
Penalty for violation.....	544
<b>REGISTRATION OF VOTERS.....</b>	<b>31</b>
<b>RELIGIOUS ASSEMBLY.</b>	
Interruption of, Penalty.....	141
<b>RELIGIOUS FREEDOM.....</b>	<b>1</b>
<b>REMOVAL.</b>	
President's power.....	11
<b>REPORTS FROM CABINET.....</b>	<b>13</b>
<b>REPRESENTATIVES, HOUSE OF, (See also Legislature).</b>	
Apportionment . . . . .	23
Districts . . . . .	23
Impeachment, proceedings.....	41
Number . . . . .	22
Qualifications . . . . .	24
Qualifications of Electors.....	29
Term of office.....	22
Vacancies . . . . .	23
Voting; Method.....	28
<b>REPRIEVES . . . . .</b>	<b>39</b>
<b>REPUBLIC.</b>	
Form and name.....	5
Territory . . . . .	5
<b>RESPIRE OF CONVICT.</b>	
<b>RESPONSIBILITY OF CABINET.....</b>	<b>13</b>
<b>RESPONSIBILITY FOR CRIME, (See Capacity for Crime)...</b>	<b>57</b>
<b>RESTAURANT.</b>	
Conditions of license.....	267
Exemptions from license.....	268
License . . . . .	266
Private families exempt from.....	268
<b>RETROSPECTIVE LAWS.....</b>	<b>28</b>
<b>REVISION OF CONSTITUTION.....</b>	<b>47</b>
<b>RIDING AND DRIVING.</b>	
Bicycles must keep light burning.....	112
Drays, Rate of driving.....	112
Driving cattle in the streets.....	111
Furious and heedless.....	111
Lights must be kept burning.....	112
<b>RIGHT OF ACTION.</b>	
Not destroyed by criminal prosecution.....	55
<b>RIGHTS OF THE PERSON.....</b>	<b>1</b>
<b>RIOTS.</b>	
Definition . . . . .	156

INDEX.

593

	PAGE.
<b>RIOTS.—(Continued.)</b>	
Penalty . . . . .	157
Refusal to disperse . . . . .	158
Verdict of misdemeanor . . . . .	247
<b>ROADS.</b> (See Streets, Highways).	
<b>ROBBERY.</b>	
Attempt to rob mail . . . . .	89
Definition . . . . .	82
Force necessary to constitute . . . . .	83
Mail carriers . . . . .	89
Penalty . . . . .	83
Verdict of assault with intent to rob . . . . .	245
Verdict of lesser degree . . . . .	492
<b>ROULETTE.</b>	
Penalty . . . . .	161
<b>RYE.</b>	
56 pounds to the bushel . . . . .	365

S

<b>SABBATH.</b>	
Amusements forbidden . . . . .	141
Definition . . . . .	141
Interrupting religious assembly . . . . .	141
Labor prohibited . . . . .	140
Sports forbidden . . . . .	141
<b>SAILING REGULATIONS.</b> . . . .	531
Distress signals . . . . .	541
Fog signals . . . . .	537
Lights . . . . .	531
Right of way . . . . .	539
Steering rules . . . . .	538
<b>SAILORS,</b> (See Seamen).	
<b>SALARY OF LEGISLATORS.</b> . . . .	20
<b>SALARY OF PRESIDENT.</b> . . . .	10
<b>SALMON.</b>	
License . . . . .	272
<b>SCHOOL,</b> (See Public Instruction, Reformatory School).	
<b>SEALS.</b>	
Government seals affixed to vessels . . . . .	376
<b>SEAMEN.</b>	
Agents for discharge . . . . .	409
Contract, when binding . . . . .	412
Debts, not liable for . . . . .	408
Deserters . . . . .	414
Discharge of . . . . .	407
Discharge, Procedure . . . . .	409
Exemption from taxes . . . . .	408
Hospital fund . . . . .	412
License for shipping . . . . .	405
Mutineers . . . . .	416
Shipping . . . . .	405
Taxes of native seamen . . . . .	408
Term of service . . . . .	410
Wages of dead seamen . . . . .	410
Wages when shipped without written contract . . . . .	409
<b>SEARCH, SECURITY FROM.</b> . . . .	4

LL

	PAGE.
<b>SEARCH WARRANT.</b>	
Arms or munitions of war.....	205
Common nuisance.....	145
Constitutional provision for.....	4
Cruelty to animals.....	109
Definition.....	204
Evidence.....	204
Purpose.....	204
Service.....	205
Smuggled goods.....	395
Spirituous liquor.....	180
Warrant.....	205
<b>SECOND OFFENSE.</b>	
How tried.....	241
<b>SECRET ASSOCIATIONS.</b>	
Applications for license.....	511
Licenses.....	511
Organization.....	511
Owner of building liable.....	512
Penalty of unlicensed.....	511
Revocation of license.....	511
<b>SECTARIAN SCHOOLS.</b>	
Not to receive public aid.....	45
<b>SECURITY FROM SEARCH AND ARREST.</b>	4
<b>SEDITIONOUS OFFENSES.</b>	519
Banishment.....	521
Conspiracy.....	519
Intention.....	519
Lawless intentions.....	520
Libel.....	519
Newspapers, Suspension of publication.....	520
Penalty.....	520
Presumption.....	519
<b>SENATE, (See also Legislature).</b>	
Apportionment.....	21
Districts, Senatorial.....	21
Elections.....	21
Impeachment, Court of.....	41
Members.....	20
Number from each District.....	21
Qualifications of Electors of Senators.....	30
Qualifications of Members.....	21
Ratification of Treaties.....	12
Special Sessions.....	12
Term of office.....	21
Vacancies.....	21
Vote for Senators.....	30
<b>SEPULTURE.</b>	
Protection of.....	326
<b>SERVICE OF PROCESS.</b>	
Refusal of officer to serve.....	119
Sunday service void.....	141
<b>SERVITUDE, INVOLUNTARY, PROHIBITED.</b>	4
<b>SHADES.</b>	
Regulation for.....	357
<b>SHEEP.</b>	
Disease of.....	294

# INDEX.

595

	PAGE.
<b>SHEEP.—(Continued.)</b>	
Driving of infected.....	294
Inspector . . . . .	294
<b>SHELL GAME.</b>	
Penalty . . . . .	161
<b>SHERIFFS.</b>	
Coroners, Duties as.....	322
<b>SHIPPING ARTICLES, (See Seamen).</b>	
<b>SHIPPING, DISCHARGE OF SEAMEN, (See Seamen).</b>	
<b>SHIPS, (See Vessels).</b>	
<b>SHIPWRECK, (See Wrecks).</b>	
<b>SHOOTING ON PRIVATE GROUNDS.</b>	
Prohibited . . . . .	471
<b>SHOW BILLS.</b>	
Posting without consent.....	152
<b>SIDEWALKS.</b>	
Vehicles not allowed.....	150
<b>SIGNS.</b>	
Regulation for.....	357
<b>SLAUGHTER HOUSES.</b>	
Prohibited when forbidden by Board of Health.....	300
<b>SLAVERY PROHIBITED.....</b>	4
<b>SMALL POX.</b>	
Treatment of patients.....	307
<b>SMUGGLING . . . . .</b>	393
Appraisement of goods.....	396
Arrest without warrant.....	393
Baggage, Forfeiture of.....	394
Claim for reward.....	397
Commitment . . . . .	399
Definition . . . . .	393
Definition of goods, wares and merchandise.....	401
Forfeiture attached to vessels.....	399
Forfeiture of goods.....	393
Forfeiture of vessels.....	393, 402
Forfeiture, Proceeds of.....	397
Imprisonment for non-payment of fine.....	400
Jurisdiction of courts.....	398
Jurisdiction of District Magistrate.....	400
Limitation of action.....	399
Mitigation of penalty.....	401
Notice of seizure.....	396
Obstructing officer.....	395
Penalty . . . . .	393
Proceeds of smuggled property.....	397
Search of vessels.....	402
Search warrant.....	395
Vessels, Forfeiture of.....	393, 399, 402
Witness not disqualified because entitled to reward.....	397
<b>SNIPE.</b>	
Close season . . . . .	469
<b>SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS, (See Cruelty to Animals).</b>	
<b>SODOMY.</b>	
Penalty . . . . .	77
Verdict of assault with intent to commit sodomy.....	245

	PAGE.
<b>SOLICITING.</b>	
Definition . . . . .	78
Evidence of . . . . .	79
Penalty . . . . .	78
<b>SORCERY, PRACTICE PROHIBITED.</b>	285
<b>SPIES.</b>	
Penalty . . . . .	528
<b>SPIRITUOUS LIQUOR.</b>	
Adulteration . . . . .	401
Auction sale prohibited . . . . .	181
Brewing of malt . . . . .	185
Distilling apparatus liable to seizure . . . . .	171
Hawaiian wine . . . . .	187
Illicit traffic . . . . .	183
Label on . . . . .	184
<b>LICENSE BOND.</b>	174
Distillation . . . . .	170
Forfeiture . . . . .	177-179
Manufacturing . . . . .	166
Presumption of no license . . . . .	180
Presumption of unlawful sale . . . . .	180
Record . . . . .	176
Retail . . . . .	173
Wholesale . . . . .	171
Manufacture from Hawaiian grapes . . . . .	187
<b>MALT LIQUORS.</b>	185
Sale . . . . .	186
Manufacture . . . . .	166
Manufacturing premises open for inspection . . . . .	169
No action for price . . . . .	178
Penalty for distilling without license . . . . .	168
Possession of . . . . .	184
Remedy of husband, child, etc. . . . .	180
Report of manufacture . . . . .	168
Rules and regulations . . . . .	169
Sale of condemned liquor . . . . .	398
Seizure of liquors unlawfully imported . . . . .	171
Sale without license . . . . .	176
Search warrant . . . . .	180
Seizure of unlicensed . . . . .	179
Stills liable to seizure . . . . .	171
Storage . . . . .	167
Sunday sale prohibited . . . . .	173
Traffic . . . . .	183
Withdrawal from Custom House . . . . .	167
<b>SPECIAL ELECTION.</b>	
Register of Votes . . . . .	32
<b>SPECIAL SESSIONS OF LEGISLATURE.</b>	12
<b>SPEECH.</b>	
Freedom of . . . . .	2
<b>STAMP DUTIES.</b>	
Evasion of . . . . .	430
<b>STATUTES.</b>	
English version governs Hawaiian . . . . .	491
Existing . . . . .	42
<b>STEAMERS, (See Vessels).</b>	
<b>STILLS, (See Spirituous Liquors).</b>	



INDEX.

597

	PAGE.
<b>STOCK AND SHARE BUSINESS.</b>	
License . . . . .	256
<b>STOLEN GOODS, (See Receiving Stolen Goods).</b>	97
<b>STOWAWAYS.</b>	
Landing prohibited . . . . .	498, 500
<b>STREETS, (See also Highways).</b>	
Awnings . . . . .	147
Digging in . . . . .	148
Hitching horses . . . . .	150
Hitching posts . . . . .	148
Kite flying . . . . .	151
<b>OBSTRUCTING, Penalty</b> . . . . .	146
Permission from Road Supervisor . . . . .	147
Poles . . . . .	148
Sidewalks, Vehicles not allowed . . . . .	150
Signs, How fastened . . . . .	147
Trees . . . . .	148
Wharves, Obstruction of . . . . .	149
<b>SUBORNATION OF PERJURY.</b>	
Definition . . . . .	114
Indictment, Requisites of . . . . .	237
Penalty . . . . .	114
<b>SUBPCENA.</b>	
Coroners may issue . . . . .	323
<b>SUNDAY, (See Sabbath).</b>	
<b>SUPERINTENDENT OF HONOLULU WATER WORKS.</b>	
Appointment and removal . . . . .	14
<b>SUPERINTENDENT OF PUBLIC WORKS.</b>	
Appointment and removal . . . . .	14
<b>SUPPRESSION OF OFFENSES.</b>	201
<b>SUPREME COURT.</b>	
Appeal from Board of Registration . . . . .	34
Appointment and removal of Judges . . . . .	10
Decisions . . . . .	40
Disqualification of Judges . . . . .	41
Impeachment . . . . .	39
Judges of Elections . . . . .	17
Jurisdiction . . . . .	40
Opinions to the Executive . . . . .	41
Removal . . . . .	39
Term of office . . . . .	39
<b>SURGEONS.</b>	
Board of Medical Examiners . . . . .	284
Examinations . . . . .	284
Forfeiture of license . . . . .	284
License . . . . .	283
<b>SURVEYOR-GENERAL.</b>	
Appointment and removal . . . . .	14

T

<b>TAN.</b>	
Penalty . . . . .	161
<b>TAXES.</b>	
Assessors, Appointment and removal . . . . .	14
Neglect to perform duties . . . . .	480

	PAGE.
<b>TAXES.—(Continued.)</b>	
False returns.....	480
False valuation.....	480
Jurisdiction of District Magistrate.....	480
<b>ROAD TAX.</b> Refusal to work.....	454
Deduction for mileage.....	454
Working out.....	454
Seamen's taxes paid by master.....	408
<b>TAXING POWER.....</b>	4
<b>TENEMENT HOUSE.</b>	
Conditions of license.....	267
Exemptions from license.....	268
License . . . . .	266
Private families exempt.....	268
<b>TERRITORY OF REPUBLIC.....</b>	5
<b>THEATRE.</b>	
License . . . . .	271
<b>THREE CARD MONTE.</b>	
Penalty . . . . .	161
<b>TOBACCO.</b>	
License . . . . .	272
<b>TREASON.</b>	
Aliens, Allegiance owed by.....	61
Allegiance, Definition . . . . .	61
Conspiracy against the Republic.....	61
Definition . . . . .	60
Evidence necessary for conviction.....	60
Misprision of treason.....	60
Penalty . . . . .	60
Recruiting soldiers or sailors.....	61
<b>TREATIES . . . . .</b>	12
Existing, Confirmed.....	44
<b>TRESPASS OF ANIMALS.....</b>	461
<b>TRIAL.</b>	
Right of.....	2
<b>TRIAL BY JURY INVIOABLE.....</b>	3
<b>TURKEY.</b>	
Ownership of wild.....	470
<b>TURNSTONE.</b>	
Close season.....	469
<b>TURPENTINE, (See Explosives).</b>	

## U

<b>UNITED STATES.</b>	
Annexation . . . . .	13
<b>UNLAWFUL ASSEMBLY.</b>	
Definition . . . . .	156
Dispersion of.....	157
Penalty . . . . .	157
Presumption of notice to disperse.....	157
Refusal to disperse.....	158
Verdict of misdemeanor.....	247
<b>UNLAWFUL IMPRISONMENT, (See False Imprisonment).</b>	
<b>UTTERING, (See Forgery).</b>	

## V

	PAGE.
VACANCIES.	
Senate . . . . .	21
VACCINATION . . . . .	308
VAGABONDS.	
Landing prohibited . . . . .	498, 500
VAGRANTS.	
Definition . . . . .	154
Landing prohibited . . . . .	498
Penalty . . . . .	154
VEHICLES.	
Inspection . . . . .	273
License . . . . .	273
Lights must be kept burning . . . . .	112
Regulations . . . . .	274
VERDICT, (See Criminal Procedure).	
Discharge from verdict for variance . . . . .	243
VESSELS, (See also Whaleships).	
Bond for Consular certificate . . . . .	378
Certificate of clearance . . . . .	382
CLEARANCE . . . . .	382
Penalty for sailing without . . . . .	384
Coasting vessels to carry mail . . . . .	91
Consular's certificate . . . . .	377
Distress signals . . . . .	541
Drawback upon exportation . . . . .	381
Duties . . . . .	375
Entry . . . . .	373
Examination of imported goods . . . . .	378
Fog signals . . . . .	537
Forfeiture for smuggling . . . . .	402
Forfeiture of smugglers' vessel . . . . .	393
Health certificate . . . . .	382
Hospital tax . . . . .	392
Importation of gunpowder, arms, etc. . . . .	379
Importations of wines or spirits . . . . .	378
Inspection of merchandise . . . . .	378
Inward entry . . . . .	374
Inward manifest . . . . .	373
Invoices . . . . .	377
Lay days . . . . .	376
Lights . . . . .	531
Light dues . . . . .	391
List of stores . . . . .	374
Manifest . . . . .	373
Mortgages to be cancelled of record . . . . .	417
Name to be painted on the stern and pilot house . . . . .	417
Outward entry . . . . .	383
Passport, Penalty for taking person without . . . . .	420
Permit to discharge . . . . .	375
Permit to tranship . . . . .	380
Registry . . . . .	417
Remuneration for carrying mail . . . . .	90
Right of way . . . . .	539
Sailing regulations . . . . .	531

	PAGE.
<b>VESSELS.—(Continued.)</b>	
Seamen, List to be furnished Collector.....	411
Steering rules.....	538
To deliver letters before entry.....	89
Transhipment . . . . .	379
Transit entry.....	379
Unstamped mail not to be carried.....	90
<b>VETO OF PRESIDENT.....</b>	<b>26</b>
<b>VIOLATING SABBATH, (See Sabbath).</b>	
<b>VISIBLE MEANS OF SUPPORT.</b>	
Evidence of.....	498
Persons without, Landing prohibited.....	498
<b>VOTERS, (See Electors).</b>	

## W

<b>WAGES OF SEAMEN.....</b>	<b>409</b>
<b>WARRANT OF SEARCH, (See Search Warrant).</b>	
<b>WASH HOUSES.</b>	
Supervision of Board of Health.....	310
<b>WATER WORKS SUPERINTENDENT.</b>	
Appointment and removal.....	14
<b>WEAPONS, (See Carrying Deadly Weapons).</b>	
<b>WEIGHTS AND MEASURES, (See also Gross Cheats).</b>	
Inspection by collector of market.....	363
Penalty for using unsealed.....	365
Sealing of.....	364
Standard . . . . .	365
<b>WELLS, (See Artesian Wells).</b>	
<b>WHALESHIPS, (See also Vessels).</b>	
Barter, Permit to.....	370
Entry . . . . .	370
Import duties.....	372
Permit to barter.....	370
Wines and spirits, List of.....	370
<b>WHARVES.</b>	
Obstruction of.....	149
Established by Minister of Finance.....	401
<b>WHEAT.</b>	
60 pounds to the bushel.....	365
<b>WIFE, DESERTION OF.</b>	
Justification . . . . .	289
Penalty . . . . .	289
Second offense.....	289
Warrant not to be served beyond jurisdiction.....	290
<b>WILD DUCK.</b>	
Close season.....	469
<b>WINE, (See Spirituous Liquor).</b>	
<b>WITCHCRAFT.</b>	
Practice prohibited.....	285
<b>WITNESSES.</b>	
Concealing testimony of.....	121
Escape of.....	118
No man against himself.....	3
Right to meet and produce.....	54
<b>WRECKING.</b>	
Penalty . . . . .	192

INDEX.

601

	PAGE.
<b>WRECKES.</b>	
Auction sale of property.....	424
Compensation to Sheriff.....	423
Duties of Marshal and Sheriff.....	422
Inventory to be taken by Sheriff.....	422
Larceny of property.....	85
Penalty for taking shipwrecked property.....	423
Publication of particulars.....	423
Unclaimed property.....	424
<b>WRITINGS.</b>	
Larceny of.....	85











OCT 12 1972

Digitized by Google



LAW LIBRARY  
University of Michigan



3 5112 105 478 582